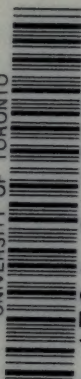
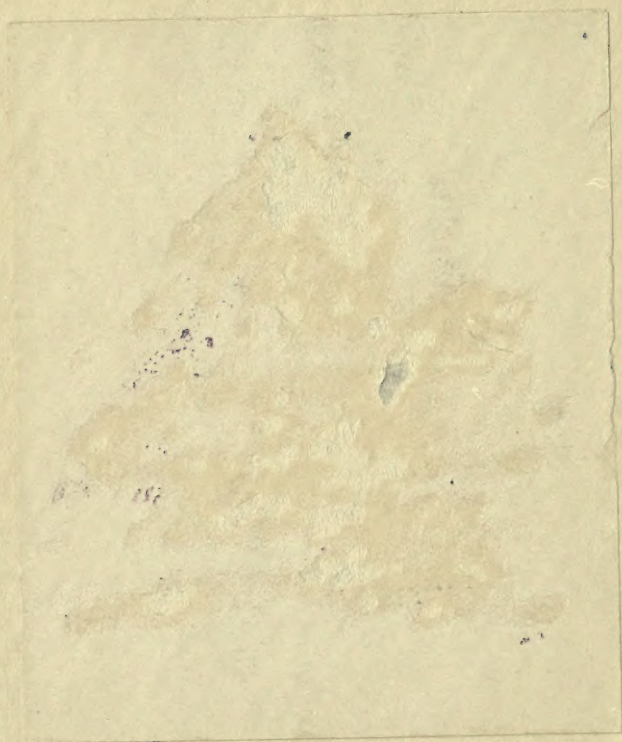


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THE INDUSTRIAL CODE

A SURVEY OF THE POSTWAR INDUSTRIAL SITUATION, A REVIEW OF WARTIME DEVELOPMENTS IN INDUSTRIAL RELATIONS, AND A PROPOSAL LOOKING TO PERMANENT INDUSTRIAL PEACE

BY

W. JETT LAUCK

AND

CLAUDE S. WATTS



FUNK & WAGNALLS COMPANY

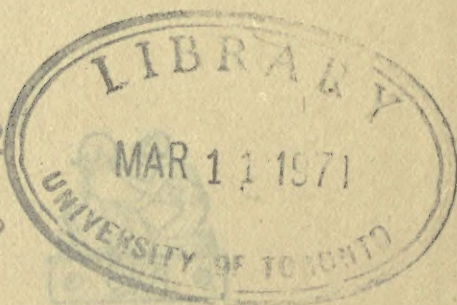
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PREFACE

This work has been undertaken and carried forward with a twofold purpose: (1) to present for the consideration of the general reader the modern development and status of certain fundamental principles for the regulation of industrial relations and conditions which pertain to the industry and affecting the welfare of industry and to a greater measure of industrial power; and (2) to collect for the student and make available for study reference, the documents and other material relating to the subject. The author has been given the privilege of the use of the unpublished material of the Bureau and it has been freely used by the authors.

W. J. L.

U. S. W.

CHAPTER I

THE POSTWAR INDUSTRIAL SITUATION

In economic discussions of the European war and its effects three periods are considered: prewar, war, and postwar. The first, with no definite date of beginning, ended with the opening of hostilities in August, 1914; the second began with the latter event and continued until the signing of the armistice on November 11, 1918; while the third began with the cessation of active warfare. In a strictly technical and legal sense this division of the periods is incorrect, for under the decisions of the Supreme Court of the United States, a period of war is not concluded until the peace, negotiated by the President and ratified by the United States Senate, has been officially proclaimed by the President. In the case of the World War, the Paris Peace Treaty failed of ratification by the Senate. A congressional resolution declaring the war at an end was approved July 2, 1921, whereupon separate treaties of peace were negotiated with Germany, Austria and Hungary, and these treaties were ratified by the Senate on October 18, 1921. Presidential proclamations declaring the reestablishment of peace were issued on November 14, 1921, as applying to Germany; on November 17, with respect to Austria; and on December 20, with respect to Hungary. Future historians doubtless will designate the time elapsing between the signing of the armistice and the issuance of the peace proclamations as the period of reconstruction, but for the present common acceptance dates the postwar period from the hour the magic word "peace" silenced the guns

on all the battle-fronts on the morning of November 11, 1918. Psychologically, the war was over on that day, and the marked effect of the armistice upon industry and business in general fully warrants the dating of the post-war period therefrom for the purposes of this discussion.

With a clear understanding, therefore, as to this demarcation of periods we may proceed with the consideration of the postwar industrial crisis in the United States.

Numerous factors contributed to this crisis. First, chronologically and in importance, was the tremendous dislocation of industry due to the war. The titanic proportions of the struggle took millions of men out of normal avenues of production and enrolled them in the fighting forces of the nation. Overnight, they ceased to be producers and became consumers on a scale at once unprecedented and never before contemplated. Modern methods and developments made this as much a war of mines, of mills, of laboratories, and of transportation as it was of men on the battlefields; and this meant that other millions of men, and hundreds of thousands of women as well, together with all the tools and machinery that could be so utilized, were diverted from their ordinary, peace-time activities and concentrated upon war production. All minds and all energies were bent on the problem of marshaling, transporting, munitioning, and provisioning the greatest armies that the world had ever known. So great was the resultant dislocation of industry that its true proportions will be realized only through the perspective of years, and the miracle of its accomplishment is exceeded only by the wonder that it could be undone without utter chaos and disaster.

Demobilization was not alone a problem of bringing our overseas forces back to the United States; of getting the millions of soldiers, marines and sailors out of uniform

and back into mufti; of breaking up cantonments and training camps; of caring for the wounded and affording vocational training for the blind and otherwise maimed who could not return to their former vocations; of disposing of surplus supplies and of returning the administrative establishments of the government to a peace basis. It involved getting the millions of men who had been taken from all fields of production back into productive work, back on the old job, or another just as good. It meant the dismantling of plants—even complete cities such as Nitro, West Virginia—that had sprung mushroomlike into existence for the sole purpose of war production. It meant the scrapping of costly machinery that was of little or no use save for munitions making. It meant the readjustment of other plants and machinery to normal productive uses. It necessitated the finding of peace-time positions for the millions of munition workers, men and women. It included the reorganization of our ocean transportation, the reestablishment of old and the establishment of new trade routes. For the bankers, it meant readjustments of loans and credits. In a word, it involved readjustments in every department and phase of the national organism, and the economic necessity that prompt and effective measures be taken was only less pressing than the war emergency had been. A people that, for almost two years, had been thinking and acting solely in terms of war must begin overnight to think and act only in terms of peace. It was cataclysmic, even as the first beating of the war-drums had been. As the venerable Clemenceau said, "We have won the war, but the greater task now confronts us—we have yet to win peace."

Small wonder, then, that the transition from war to peace was fraught with such possibilities for good or for

evil. Small wonder that an industrial conflict was precipitated almost instantly—a conflict as old as the differences between the sons of Martha and the sons of Mary. However, ancient as this conflict may be in its genesis, in its present status it is new in many aspects and in its proportions. This is due essentially to the exaltation of labor during the war emergency. During this period the importance of labor was realized as never before, for it was apparent from the beginning that civilization tottered and would fall but that men and women worked faithfully, intelligently, and effectively. Courage, fortitude, and genius on the part of the fighters in the trenches, on the seas or in the air were of no avail unless backed up by the strength, capacity and skill of the industrial army at home. The automatic riveter was no less a weapon than the machine-gun, and the war was to be won by sweat no less than by blood.

In the final analysis, it might be said, society stripped itself for war as a battleship is stripped for action. Raw materials, manufactured products, food, men who would fight and men who would work, and others who made it possible for them to fight and work, were the essentials, the only things of importance. The nations could get along without anything else, but they could not get along without those things.

Necessarily, therefore, the position of the worker in the social fabric was greatly enhanced. Never again was labor to be regarded as a commodity whose wage should be determined by the law of supply and demand. The last stronghold of those who had clung to that economic fallacy fell, not captured, but abandoned. Everything was sacrificed, or to be sacrificed, if need be, to the emergency, to the national necessity, and it was inevitable that capital and property rights should be subordinated

more and more to human rights. That this trend opens up grave problems and even dangers is not to be gainsaid (merely to point to Russia is to prove that), but in the minds of students and observers it is to be recorded as a fact, whatever it portends, whatever its menace. The World War ushered in the era of economic freedom, just as the eighteenth century witnessed the establishment of the era of political freedom.

During the war the wages and hours of labor were rarely determined upon a sound or scientific basis. As a rule, the governing factors were necessity, and appeals to patriotism and the spirit of sacrifice. Speeding up and increasing production were the first considerations in every industry; the cost was a factor of secondary importance, or of no importance whatever. The work must be done, and there was not a sufficient number of workers to do it and get it done as speedily as it needed doing.

This resulted in a competition for labor that was to prove far-reaching in its consequences. Employers began bidding against each other for skilled workers, and soon found themselves obliged to resort to the same tactics to secure any kind of workers. Wage increases, bonuses, premiums and prizes were the order of the day, and naturally the workers, individually and through their unions where they were organized, made the most of their opportunities. This meant that wage rates were adjusted largely on the basis of the maximum demands of employees as modified by the maximum concessions that could be wrung from employers.

Peculiarly enough, the government both aggravated and fought against this tendency. Contracts were let for munitions and war essentials at fixed prices, but with provisos that the manufacturers would be reimbursed by

the government for any increases in their production costs due to wage advances; and other contracts, notably for the construction of cantonments, supply depots, and the like, were let on the cost plus basis, which meant that the more a contractor expended on a given job the greater his profit would be. The effects on wage rates of this policy are obvious.

On the other hand, the government was constantly appealing to workers to "stick on the job" regardless of better wages in other communities or in other industries, to endure hardships resulting from advances in living costs out of proportion to the increase in their earnings, and to offer up economic sacrifices in the same spirit that the men overseas were offering up their lives on the altar of patriotism. Hundreds of thousands of working men and women responded loyally to these appeals and suffered a marked impairment of their economic status, as compared with that of the more favored or the more grasping of their fellows.

Had it been possible for the government to take over all industries, to fix the prices of all commodities, to establish classifications for all workers and to fix all wage rates, the industrial problems arising from the war would have been immeasurably simplified, and it may be contended in some quarters that it was possible for the government to have done this. However, the fact remains that it was not done, and it is with that fact, along with others, that we are dealing in seeking to arrive at the causes of the postwar crisis.

Due to the unscientific methods by which war wages were determined, with the complications ensuing from a policy of the government that was confounded by its practises, there were resultant inequalities and injustices to individuals and groups. On the whole, however, the

status of labor may be said to have been substantially bettered as a result of the war. It is true that in only a few crafts and industries did the rise in the level of wages exceed or even approximate the rise in the cost of living, and there was a consequent impairment of real income, but, generally considered, labor came through the war with these distinct gains:

Levels of money wages generally higher;

Recognition as a coordinate factor in industry, and entitled, therefore, to a voice in its control;

Large increases in the membership of all trades unions;

Largely augmented incomes and surpluses in the treasuries of trades unions;

General acceptance of the principle of collective bargaining.

That labor came out of the war determined not to relinquish an inch of the ground it had gained is a statement merely affirmative of a universally recognized trait of human nature. The workers of the country also came out of the war determined to wrest further concessions and advantages from employers and from society in general. Details of the program for the movement that is to bring this about have only been worked out in the minds of a few leaders, perhaps, but it is indubitable that labor now has a group consciousness as never before, and the fundamental purpose of this group consciousness is not only to dig in, fortify and hold the ground gained, but to press forward.

Employers, for their part, came out of the war with no such clearly defined or definable group consciousness and purpose. Not infrequently they differ among themselves more pronouncedly than they disagree with the protagonists of labor. Unquestionably, they all recognize

the great change that has taken place in the relations of the parties to industry. Some view this change with alarm; some view it with mixed emotions. Some would like to return to prewar wages and conditions; others would not, while most of them doubtless realize that such a return is as impossible as it is improbable. Altruistic purposes are tempered by the sense of responsibility to investors. Many are restrained from committing themselves to new ideas by the pressing problems of distribution and of finding new markets, and by the fear of foreign competition, while with others excessive caution leads to inaction or to blunders that aggravate existing complications. All this has served to prevent the development of a program behind which the employers of the country may marshal their forces with any degree of unity.

Thus we find the two elements that had pulled together and worked harmoniously to a commendable degree during the war, while the national welfare was in jeopardy, arrayed in opposition to each other almost as soon as the news of the armistice had been flashed across the Atlantic. This opposition was not at once open and avowed, and responsible leaders on both sides counseled moderation and peace, with many admonitions that the interests of employer and employed were identical and inseparable. None the less, the antagonism was there, and he was blind indeed who could not see in the signs of the times the clash that was inevitable.

Two things contributed materially to the complications of this situation and to the intensifying of the bitter feeling on either side:

First, the growth of the radical element in the ranks of labor;

Second, the revelations of colossal profiteering by producers and middlemen.

Employers were alarmed over what they regarded as a threat if not an actual menace of terrorism, and they called loudly upon the government to crush this bolshevism in its incipency. They feared that sober, sane American workers were being contaminated by reckless Reds from Europe, and some conservative union officials agreed that there was danger of this. Quantities of literature and other evidences galore of the radical propaganda were found, and then came one or two bomb outrages, or attempted outrages, and it seemed that the peril was at hand.

Prompt measures by the authorities, however, served to hold the situation in hand and to allay public fears. There were wholesale arrests and deportations of alien agitators and it was made clear that the United States did not offer asylum to the terrorists from overseas. Leaders of American labor, who spoke with authority, protested that the program of the labor movement in this country included neither revolutionary ideas nor plans inimical to the letter or the spirit of our laws and institutions, and to the impartial mind they proved their case.

However, the activities of the extremists were sufficient to convince many employers that the concessions made to labor during the war emergency were unwise, that the demands of labor were "insatiable," and that the time had come to call a halt upon a policy which they termed "coddling labor." That attitude, needless to say, did not make for peace.

Then came the profiteering scandal, and the embers of unrest and discontent were fanned again into flames.

Living costs, which had climbed steadily during the war period, continued to advance even more rapidly after the signing of the armistice. All classes of labor were demanding wage increases to enable them to carry this

constantly increasing burden, only to be met with the answer that further to advance wages would immediately result in higher prices of all commodities, and that labor's predicament would be relatively the same.

This constituted the so-called "vicious circle" argument: To increase wages necessitated, it was claimed, advances in the prices of the products of labor, which meant an increase in the cost of living; whereupon it was concluded that if labor demanded wage increases to meet this increased cost of living, the result would be further advances in commodity prices and a still higher level in the cost of living, and so on, *ad infinitum*.

Labor's rejoinder to the vicious circle argument was that it was a vicious fabrication.

Labor's explanation of the economic process in question was predicated on the contention that labor never received a wage increase in the first place until it had been at an economic disadvantage long enough for it to establish the justice of its demands, and that the additional labor costs due to such wage increases were invariably multiplied from three to five times in the increased prices charged the consumer. Thus, labor argued, instead of a vicious circle there was an ever-ascending spiral of prices and profits, with labor and the consumer always at a disadvantage. Wage advances were an *effect* of price advances, not a *cause*. Prices were forced up by factors over which the workers had no control, and in the last analysis it would be found that excessive profits, rather than high wages, were responsible for high prices.

Many economists, some publicists and a few statesmen took the labor viewpoint, and the public began to hear about predatory producers and middlemen. The Secretary of the Treasury submitted to the Congress a document entitled "Corporate Earnings and Government Revenue,"

which purported to show the incomes of approximately 20,000 of the 31,500 corporations in the United States reporting incomes of over 15 per cent. on their capital stock for the year 1917. So astounding were the revelations in this document that United States Senators, among them Capper, of Kansas, Kenyon, of Iowa, and Walsh, of Massachusetts, made addresses on the floor of the United States Senate in which they flayed and flailed the profiteers mercilessly.

In the great railroad wage arbitration which followed the return of the railroads to private control, the sixteen union organizations of railway workers caused a survey to be made of the general subject of the relation of wages and labor costs to prices and profits. The results of this survey were presented to the United States Railroad Labor Board in support of the claims of the railway workers for wage increases, and to refute the general allegation that high wages were responsible for high prices, and were given widespread publicity in the press at the time.

The startling allegation was made that the American people had paid the combined corporations of the country more than five billions of dollars per year in excessive profits for the war period, 1916-1918, as compared with the prewar period, 1912-14, and in support of this charge figures were presented from the financial manuals, from the reports of the corporations themselves, from the records of the Federal Trade Commission, and from other authoritative sources. These figures covered all the basic industries (steel, iron, coal, textiles, clothing, shoes, meat packers, sugar, et cetera) and were accepted by the public as unanswerable because they were unanswered.

Workers in general accepted these revelations as confirmation of labor's age-old belief that it is the exploited

class, and that it can hope to secure a measure of justice only by the use of economic force. That, again, did not make for peace.

Three great conflicts or clashes between employers and employees were distinctive features of the development of the postwar industrial crisis. First came the steel strike in September, 1919, second, the strike of the bituminous coal miners on November 1, 1919, and third, the transportation crisis, in which no general strike was called, but the railroad service was seriously hampered in the latter part of 1919 and early in 1920 by unauthorized strikes and by thousands of workers "going on vacation," which had all the effect of being a strike altho the officials of the unions insisted that it should not be so termed.

The steel strike, while never completely tying up the industry, had far-reaching disastrous effects in retarding the "back to normal" business movement, and it cost the steel workers and the steel companies in lost wages and lost business at least a quarter of a billion dollars. The strike, which had for its real purpose the forcing of the United States Steel Corporation to recognize and deal *with the unions*, was lost in the end, altho the workers were given a voluntary wage increase by the Steel Corporation after the strike was called off.

The bituminous coal strike, coming just at the time the steel strike was at its height and at the opening of winter, threatened industrial disaster and actual hardship and suffering for millions of people, but the government interceded and by drastic measures averted a calamity. The Fuel Administration was revived temporarily, coal prices were fixed and the distribution of the fuel regulated, 125 operators and officials of the miners' union were indicted for conspiracy under the Lever Act, the operators and miners were persuaded (literally forced) to submit their

controversy to arbitration by a Commission appointed by President Wilson, and the production of coal was resumed early in December. The President's Commission in its award gave the miners a 27 per cent. wage increase, which was viewed as a substantial victory for them.

This strike grew out of a war-time agreement between the operators and miners, to which the government was a party. In October, 1917, the wages of the bituminous workers were readjusted, the government, through the Fuel Administration, giving the operators a price increase to cover the wage advances. This readjustment was embodied in an agreement or contract which was to run "for the duration of the war," or until April 1, 1920.

During the summer and fall of 1918, the miners asked for a further wage readjustment on the ground that the increases given them were wholly inadequate to meet increased living costs. Their application was denied by the operators and by the government, however, and the miners were told they would be required to live up to their agreement "for the duration of the war," despite the fact that coal prices had been adjusted from time to time for the operators and a wage increase had been granted anthracite miners in the fall of 1918.

Shortly after the signing of the armistice, the Fuel Administration was dissolved and governmentally fixed prices for coal were withdrawn, whereupon the bituminous miners renewed their request that the operators negotiate a new agreement with them. They contended that the war was practically over, if not legally so, and that they should no longer be held to a "duration of the war" agreement, especially in view of the fact that the operators were no longer subject to governmental price fixing. The operators insisted, however, upon adherence to the letter of the contract, and the strike was called.

Had the government at that time had any agency for adjusting labor controversies, it is doubtful if this dispute would ever have gone to an open break, but the National War Labor Board, the last of the war-time agencies for such purposes, had gone out of existence on August 12, 1919, and the miners contended, with some justice, that they had no recourse except to resort to the strike threat and, if that failed of results, to strike. The miners prejudiced their cause in the public mind to a degree, however, when they demanded a 60 per cent. wage increase and a six-hour day, five-day week. The public was not prepared to listen to a proposal involving what appeared to be such a radical reduction in working hours, and would not accept the miners' explanation that they sought primarily to stabilize employment conditions in the mining industry. The miners had lost their cause, so far as the public was concerned, when they shut down the mines, but in the end they secured a substantial wage increase, and they were not forced to abide by their war-time agreement.

The threatened crisis in the field of transportation was averted largely through the appeals of President Wilson to the railway workers not to press their claims for wage increases until the transfer of the railroads from government to private control had been consummated; through the wise leadership of the union officials and the moderation and patriotism of the rank and file of the railway workers; and through the creation under the Cummins-Esch Law of a tribunal guaranteeing the workers prompt consideration of their demands. This Railroad Labor Board in July, 1920, granted substantial increases to all classes of railway employees.

CHAPTER II

THE DELAYED PEACE AND ITS EFFECTS

Americans, as individuals and as a people, were no more prepared for peace than they had been prepared for war. Perhaps it was not so amazing that we were in no degree prepared to cope with the emergencies presented by our sudden entrance into the European conflict, inevitable as our being drawn into it sooner or later had appeared from the day of the sinking of the *Lusitania*. The people of the United States did not want war, and the presidential campaign of 1916 turned on the issue of our keeping or being kept out of it. Moreover, it had been argued that to prepare for war was to invite war. But no such excuses may be brought forward for our failure to prepare for peace. Once in the war there was no keeping out of peace, everyone wanted peace, and to have done anything that would have honorably invited or hastened peace would have won universal approbation. An occasional voice in an admonitory tone was lifted in this country, and England, under the wise leadership of Lloyd George, began preparation for peace a year or eighteen months before the signing of the armistice. As a nation, however, we profited neither from precept nor from example. November 11, 1918, found the country without a reconstruction program; such a thing had not even been considered, much less worked out and adopted.

Had the peace been coincident with the armistice, or had it followed immediately thereafter, the postwar sit-

uation and developments doubtless would have been vastly different. Plunged overnight into the maelstrom of war, the nation met every emergency with emergency measures that were worked out in time into permanent policies and programs. Instant action was called for, and whatever the amount of squirrel-cage motion there may have been, action was had.

The nation's welfare hung in the balance in the situation presented by the cessation of hostilities, just as the nation's life had been at stake from the moment we entered the war, but the realization of that fact could not be driven home to any considerable portion of the people. There was a great deal of talk about what was to be done and how to do it, and the squirrel-cage raced around madly, but there was no motion *forward*.

Necessarily, too, economic adjustments in the postwar emergency waited on political adjustments, to a large degree, and it soon became evident that the peace treaty would be long in negotiation and even longer in ratification. Men grew accustomed to directing their attention toward Washington, toward Paris, and toward other European capitals. Business and industry, they said, must mark time until it could be known what the international adjustments and relations would be.

This policy (or practise without a policy) of marking time thus grew into one of the worst of the ills with which the delayed peace was fraught. It is not suggested or implied that the country entered upon a period of stagnation. There was action in many lines, in many quarters; real progress was made, here and there, but it was all *local*; through it all there was no *national* spirit, or purpose, or plan. No better evidence of this could be asked than is to be found in the fact that, two years after the armistice, the country went to the

polls in a national election with one candidate for the Presidency emphasizing the slogan "Back to normalcy!" and with no one knowing just what that meant: there was no concrete program defining it.

It was but natural that, with the period of transition from war to peace unduly or unexpectedly prolonged, there should develop a widespread agitation and propaganda, some of it of an extremely radical or even revolutionary character. This was largely fed (1) by the existence of labor grievances which had arisen during the war, but which it was claimed had never been adjusted satisfactorily, and (2) by the unemployment or sudden curtailment of work or earnings of large numbers of workmen, which had been brought about by the abrupt termination of war contracts and the simultaneous demobilization of our armed forces. Counter agitation and propaganda were started by (1) those who feared extreme radicalism in the labor movement, and (2) the obstructionists or small group of irreconcilables among employers who do not wish any progress made, but insist upon a return to prewar conditions.

The contribution of labor organizations to this campaign was first by way of insistence upon the immediate redress of the grievances of workers growing out of war period injustices, and the impairment of the economic status due to postwar advances in the cost of living. This was featured by demands for wage adjustments and followed up by strikes where such demands were ignored or refused.

However, it is to be noted as of greater significance that the period following the termination of the war has been marked by a remarkable change on the part of wage-earners both in their conceptions of the fundamental functions of industry, and in their attitude

toward the relations of the public, or of the State, to capital and labor. The labor movement prior to the war was mainly concerned with the effort to secure improved standards of work and increased compensation. It was conducted on the basis of a permanent conflict for shorter hours, higher wages, and better conditions of work for men, women and children. The war period may be said to have changed completely the emphasis in labor's demands and its ideals as to the future. Stress is still placed, of course, upon the need for a greater degree of participation in the output of industry as well as for better working standards; but the main object now held forward in labor agitation is the demand for a greater measure of control by labor in industry. This movement ranges all the way from the demand for collective bargaining, to the agitation for the complete control and operation of industry by labor in the interests of labor.

A new conception of industry has also been formed by labor and by a large part of the general public. Prior to the war, industry was considered as being conducted primarily for profit, the theory being that by competition and by the free play of selfish, economic forces the greatest advantages to the greatest number (labor, capital and the public) would be accomplished. During the war and postwar periods, however, the idea has been gaining ground and growing in force and acceptance that in reality industry is a social institution. In its most conservative form, this idea finds expression in the contention that industry should not be conducted in a spirit of relentless self-interest for profit, but that while the stimulus of profit should be retained and the fundamental rights of capital and labor should be protected and conserved, industrial promotion, expansion, and operation should be primarily a social service.

All these changes in point of view and new conceptions, whether as to the aims of labor or theoretical social program, which were brought forward by agitation and propaganda while the nation waited for the delayed peace, were summed up in more or less indefinite and general phrases such as "industrial democracy," "democratization of industry," or "socialization of industry." These terms are, as a rule, used loosely and without any general agreement as to their exact meaning. Careful analysis, however, as to the currents of thought and agitation, reveals a common tendency everywhere, which, in the absence of a better term, may be described as the movement for industrial democracy.

As the explanation of the underlying movement for industrial democracy, it is argued that the leading industrial nations of the world have arrived at a consensus of opinion, perhaps more or less unconscious and uncrytallized as yet, that the political democracy which the world has now had for approximately a hundred years is a failure unless it is to be supplemented by measures for the realization of industrial democracy. Through the struggle of centuries, equality in political activity and in personal and civil liberty has been secured. The World War had for its object the destruction of autocracy and privilege in their last stand against democratic political control.

Along with the evolution of political democracy has proceeded marvelous industrial development, the main characteristic of which has been the growth of large scale production. By the bringing together of all the elements entering into the manufacture of finished products, and by the utilization of new inventions and mechanical genius, economies have been secured which have made possible the production of commodities in great

quantities at low costs. The necessary direction of large-scale production has been secured by the creation of artificial legal personages, or, in other words, industrial corporations, in which there has gradually become centered on a national or international scope, the control of basic industries employing thousands of men and women in the production of commodities essential to the public well-being.

The point has now been reached, it is claimed, at which these industrial corporations must be subordinated to democratic political institutions. Unless there can be democracy in industry and democratic control of industry, proponents of the new idea insist, political institutions which have been developed with so much bloodshed and suffering will be futile and ineffective.

Labor leaders were not without concrete plans for carrying forward the new movement, as was witnessed by the promulgation in 1919 of the Plumb Plan, so-called, for dealing with the railroads. This plan proposed the purchase of the railroads by the government and their operation for the benefit of labor, management, and the public, by distinct corporations, the directors of which shall be representatives of employees, managers, and the public.

This proposal created a nation-wide furor, and was immediately assailed by capitalistic interests as being nothing more nor less than a plan for the socialization of industry and its operation by a labor autocracy. The weight of this criticism is seen when it is pointed out that while the Plumb Plan called for tripartite control (employees, management and the public) in the final analysis and in actual practise there is no real distinction between industrial managers and other forms of mental or physical labor employed in an industry; the tendency,

therefore, would be for the two factors, employees and management, to combine as against, or without regard to, the public.

However, the impression made upon the popular mind by this plan, which was espoused by the railroad labor organizations, long recognized as leaders in trade-unionism, was such that advocates of the existing order of things—standpatters, as it were—recognized the advisability of fighting it with something more than mere opposition and criticism, and counter proposals were brought forward. One such came from the United States Chamber of Commerce. It provided for union recognition; joint boards composed equally of employers and employees for the adjustment of differences between the working forces and the management; labor representation on the Boards of Directors of Regional Railway Corporations; and the regulation by the government of railway corporation finance and security issues. This plan may be described as public control of corporate activities in the public interest, joint labor and capital control of industrial conditions and relations under public supervision, and the continuance under these restrictions of control of industry by capital with minority labor representation in the directing forces.

Other plans were advanced by railway executives, by associations of owners of railroad stocks and bonds, and by individuals, but in the end the Congress of the United States worked out its own plan in the guise of the Esch-Cummins Law, details of which will be discussed later.

Meanwhile, among other outstanding developments of the campaign of agitation and propaganda which went on while the nation "waited to see what happened to the peace treaty," was the effort made by capital and

by labor each to fasten on the other responsibility for the prevailing and continually advancing high prices and resultant high cost of living. This was a war of crimination and recrimination, which proved nothing conclusively save that there had been, and was, profiteering of the most flagrant, shameful character, and that the profiteers, whoever they might be, richly deserved the opprobrium that was heaped upon them. It served chiefly to point the need for doing something about the labor and general industrial problem.

Publicists and industrial experts offered their contributions by way of discussions in the newspapers and magazines, and by bringing forward plans that were heralded as panaceas for all industrial ills. There was much experimental work in this direction. There were many single establishments in various parts of the country, where labor troubles were scarcely if ever known; where the relations between employer and employees were eminently satisfactory; where labor had a voice in the control of industry and a share in addition to its wage in the profits; and where production never lagged. Other employers, earnest and thoughtful in their purpose, sought to realize these ideal conditions in their own plants by the adoption of various committee systems and profit-sharing plans. They even sent their representatives into the mills as laborers to get the laborer's viewpoint and reactions, and exceedingly interesting sociological and psychological data were assembled. These efforts of individual employers, altho they may have borne beneficent results for the individual plants, can not be said to have aided materially in the solution of the national problem.

Probably the most helpful development and sign of this time was to be found in the changed attitude of the

church. All leading ecclesiastical denominations, without exception, cast aside their prewar apathy and indifference toward the industrial world and officially proclaimed their intense interest in industrial conditions. These pronouncements of the churches were not limited to generalities, but elaborate and detailed constructive programs were put forward for the purpose of according a practical application of the conceptions of the churches; working funds were collected, and clergymen, priests, and laity were urged to work for the realization of these constructive principles. The attitude was taken boldly that industrial relations and conditions must be brought into complete harmony with the fundamental teachings of Christianity.

A force, which was almost entirely unknown before the war, has been injected, thereby, into the discussion of labor and industrial problems. Its significance cannot be overestimated. It is one of the miracles of the war. The churches may be said to have added an ethical and spiritual force to the movement for a more sound and liberal democratic industrial order, and it is the verdict of history that the moral and spiritual elements are those which in any movement make for permanent progress and human betterment.

On September 3, 1919, in the midst of the public discussion which has been outlined, President Wilson sent letters to representatives of employers and of labor, as well as to representatives of the public, inviting them to participate in a National Industrial Conference to meet in Washington on October 6. The specific purpose of the conference was stated by the President to be that of "consulting together on the great and vital questions affecting our industrial life, and their consequent effect upon all of our people." It would be the duty of the

conference, the President said, to "discuss such methods as have already been tried out of bringing capital and labor into close cooperation, and to canvass every relevant feature of the present industrial situation for the purpose of enabling us to work out, if possible, in a genuine spirit of cooperation, a practicable method of association based upon a real community of interest which will redound to the welfare of all our people."

The Secretary of Labor called the conference to order and the Secretary of the Interior presided over its deliberations. Its personnel included the ablest leaders of capital and labor, and also men and women who had given years to the study of industrial and social questions in the public interest and were recognized authorities. It met at a critical time, when the first great postwar clash between employers and employees (the steel strike) was at its height, and when there was general apprehension of an industrial war that might prove revolutionary in its nature and consequences.

Nevertheless, the conference was unable to work out any program or constructive policy, and after the withdrawal of the labor group and the departure of the employers' group on October 22, the conference was finally abandoned on October 23. The public group held a brief session at the request of the President, but adjourned on October 24, after issuing a statement of the results of the conference.

The conference split on the question of collective bargaining and trade-unionism, precipitated by the introduction by the labor group of a resolution recommending the arbitration of the steel strike. After days of debate, in committee and on the floor of the conference, the issue was drawn sharply as to whether in collective bargaining the right of employees to be represented by

representatives of their own choosing should be affirmed. The employers, under the leadership of Judge Elbert H. Gary, executive head of the United States Steel Corporation, insisted that employers should not be required to deal with representatives of their employees not chosen by and from among their own employees, and that outside representation meant dealing with and in effect recognizing the unions. The labor leaders were adamant in their insistence upon the "representatives of their own choosing" feature of the proposed declaration, and declared the futility of continuing the conference if that fundamental right of labor were not affirmed. A majority of the public group voted with the labor group on this definition of collective bargaining, but as it was necessary that all three groups be in agreement on any affirmative action the disruption of the conference followed, the labor group withdrawing after a dramatic address by President Gompers, of the American Federation of Labor.

Various programs for settling industrial controversies were put forward at the conference, but were never acted upon or debated in the public sessions. The public group recommended a system of industrial boards, including joint boards in each of the principal industries, which would be in effect the tribunals of original jurisdiction, and a national board of tripartite character, representative of employers, labor and the public, to be appointed by the President of the United States, which would be the court of last resort.

Labor's plan for industrial peace called for the establishment in each industry, by agreement between the organized workers and associations of employers in the industry, of a national conference board composed of an equal number of representatives of workers and

employers, to secure improved industrial relations between employers and employees, and to act in an advisory capacity to the government. The plan included the affirmation of eleven principles, which the labor group termed basic and fundamental, and on the ground that the flow of immigration should at no time be greater than the nation's ability to absorb it, the resolution finally urged the prohibition of all immigration into the United States "until two years after peace shall have been declared."

The employers' program was confined to a statement of more or less general principles applicable to the management of industry, and suggested practically no concrete methods for carrying them into effect. It emphasized freedom of contract and the principle of the "open shop," as fundamentals of individual liberty that should be preserved, would limit the right to strike to employees in private industry, and would make the individual establishment, rather than the industry as a whole, the unit of production. The adoption of this last principle would necessarily limit the settlement of controversial problems to the means of adjustment afforded by individual plants or establishments. In a few particulars the labor and employers' programs coincided. Both declared for a living wage, for equal pay for women for equal work, for one day of rest in seven, and the discouragement of overtime.

The utter failure of the National Industrial Conference to make even a beginning toward the solution of the pressing problems of industrial unrest added largely to the general chaotic situation. It appeared that industrial peace was as remote as international peace, and that the delay in attaining the latter had made impossible the realization of the former. President Wilson, engrossed as he was in international affairs, did not,

however, abandon hope of making progress in the consideration of the domestic problem, and on December 1, 1919, he assembled a second Industrial Conference, to take up the work that the first had abandoned.

This second conference was smaller in numbers and did not include representatives either of capital or of labor, as such. After deliberations extending over four weeks the conference issued a statement* "in the desire that certain tentative proposals be given considerate study by interested individuals and organizations throughout the country."

"The right relationship between employer and employee in large industries," declared the Conference, "can only be promoted by the deliberate organization of that relationship. Not only must the theory that labor is a commodity be abandoned, but the concept of leadership must be substituted for that of mastership. New machinery of democratic representation may be erected to suit the conditions of present industry and restore a measure of personal contact and a sense of responsibility between employer and employee. The more recent development of such machinery with the cooperation of organized labor is a hopeful sign. But, back of any machinery must be the power which moves it. Human fellowship in industry may be either an empty phrase or a living fact. There is no magic formula. It can be a fact only if there is continuous and sincere effort for mutual understanding and an unfailing recognition that there is a community of interest between employer and employee."

Discussing the "method of preventing or retarding conflicts," the Conference said:

"There must be full participation by employers and

* See Appendix.

employees. There must be representation of the public to safeguard the public interest. The machinery should not be used to promote unfairly the interests of organizations, either of labor or of capital. The plain fact is that the public has long been uneasy about the power of great employers; it is becoming uneasy about the power of great labor organizations. The community must be assured against domination by either."

The final report of the Conference recommended the establishment of a National Industrial Tribunal and Regional Boards of Inquiry and Adjustment,* but did not suggest that any fundamental principles should be mandatory upon these agencies. No code or principles were specifically recommended as a basis for their action. In a separate section of their report, however, the Conference did set forth a discussion of principles and policies in their bearing upon industrial relations and conditions, which is presented in detail in a later chapter of this volume.

Meanwhile, a committee of the United States Senate, of which the Hon. William S. Kenyon, of Iowa, was chairman, was conducting an investigation of the steel strike. Its inquiry led the committee in its report to make certain constructive suggestions as to ways and means of dealing with the general labor problem. The first of these suggestions was that there be established a national tribunal similar to the National War Labor Board, "this board to have power of compulsory investigation; to have large power in mediation and conciliation and recommendations; not to the extent of compulsory arbitration, but before this board controversies could be heard, investigations made, and decisions rendered. . . . That the board should be in the nature

* See Appendix.

of a Federal industrial commission, seeking at all times not only to settle pending disputes but to help bring about a more harmonious condition between employer and employee. A decision of said board would be endorsed by the public, and public sentiment is powerful enough to enforce the findings of such a commission."

Out of all this agitation and propaganda, investigation and discussion, planning and experimentation, during the first two years of the postwar period, while the final establishment of international peace was still delayed, there resulted therefore only two affirmative constructive governmental actions:

1. The establishment of the Kansas Industrial Court.*
2. The labor provisions of the Esch-Cummins Railroad Act.†

In the crisis precipitated by the strike of the bituminous coal miners a bill was hurried through the Legislature of the State of Kansas, and made a law by the signature of the Governor of the State, which may be characterized as the most extreme measure affecting the relations of labor and capital ever enacted by any legislative body in the United States up to that time. It was intended to prevent the interruption by strikes or lock-outs of any industry largely or directly affecting the public welfare, and went beyond compulsory arbitration—theretofore regarded as the limit of measures or proposals of that nature—to compulsory adjudication.

The law created a Court of Industrial Relations and gave the court jurisdiction over five industrial groups: food, clothing, mining, transportation and public utilities and common carriers. Full powers were granted in cases of controversy in the matters of wages, hours of labor,

* See Appendix.

† See Appendix.

working and living conditions, and rules and practises in those industries. The court may in emergency take over and operate industries, and violations of its orders, or of the law creating it, are made punishable by fine or imprisonment, or both. The outstanding feature of the law is that it makes the public welfare, or the public interest, preeminent over property or corporate rights, or over the rights of labor, as such.

The labor provisions of the Esch-Cummins Act of 1920, the measure whereby the railroads were transferred from government control and operation back to the private owners, included the creation of a United States Railroad Labor Board and recognition of the adjustment boards established by the railroads and the railway labor organizations. The Act perfected and perpetuated the system of collective bargaining that had prevailed for years in the transportation industry, both prior to and during government control, and in this respect has been generally accepted as a progressive and forward legislative measure.

The creation of the Railroad Labor Board, and the promptness with which that body addressed itself to the adjustment of the wage demands and grievances of the great body of railroad employees, had much to do with averting the disaster of a complete breakdown in the country's transportation service in the crises of 1919-1920.

The most noteworthy and unprecedented feature of the law, so far as its labor provisions are concerned, was the incorporation of seven principles or standards which were made mandatory upon the Railroad Labor Board in reaching its conclusions as to wages and working conditions. These principles were as follows:

- (1) The scales of wages paid for similar kinds of work in other industries;
- (2) The relation between wages and the cost of living;
- (3) The hazards of the employment;
- (4) The training and skill required;
- (5) The degree of responsibility;
- (6) The character and regularity of the employment; and
- (7) Inequalities of increases of wages or of treatment, the result of previous wage orders or adjustments.

This action by the Congress was without precedent in this country, or in any commercial or industrial nation. Never before had any legislative body laid down any set of principles which should be followed by an industrial board or court in making wage adjustments. It grew out of certain guaranties which the war-time Railroad Administration had promised to railway employees as a basis for final settlement of grievances. As a matter of fact, however, it marked the beginning of an industrial code or series of principles for labor adjustments in the transportation industry which, as we shall see later, was elaborated and extended by the Railroad Labor Board in the practical adjustment of disputes.

CHAPTER III

WAR-TIME HANDLING OF THE LABOR PROBLEM

Upon the entrance of the United States into the World War in the spring of 1917 there was immediate and general recognition of the fact that the mobilization, training, disciplining and directing of an industrial army was one of the gravest problems confronting the nation. Never before had there been occasion or necessity for dealing with the labor question on a national scale, and there was a woful lack of information on the subject and an equally lamentable lack of official machinery through which to undertake to handle the problems involved. There was little uniformity in state legislation dealing with labor and industry, and such Federal laws as had been enacted promised little for the emergency.

The Department of Labor had been organized but recently, and its activities had been directed for the most part along research and educational lines. It is true that the Department had a Division of Conciliation, but its function was merely to offer the services of its field representative as mediators in threatened industrial controversies or actual strikes, and it had neither inquisitorial nor mandatory powers. It could arbitrate only when both parties to the dispute were willing to submit; it could recommend, but it could not enforce its recommendations. Moreover, while no criticism of the Department and the Division is intended or implied, it should be stated that employers generally were reluctant to permit themselves or their affairs to be drawn within its sphere

of influence, for they felt that it was essentially a pro-labor organization, manned largely by those who had been identified with or were sympathetic toward trade-unions.

A few industries were comparatively well organized at this time, with agreements as to wages and working conditions subject to readjustment at stated intervals, and with machinery for settling such disputes and controversies as might arise. This was notably the case in the mining industry, both bituminous and anthracite; in the railroad industry, and in the printing and publishing industry. In practically all other industries, however, such contractual undertakings as were in existence at the beginning of the war were local in character.

Out of the public discussion and the official consideration of the problem at the time three decisions were reached. Perhaps it would be better to say that the nation made up its mind to three things:

First, everybody should and would pull together to help to win the war;

Second, whatever was done in the way of a program for handling the labor problem should be nationwide in its scope and under the control of the Federal government: there was to be no leaving of any phase of it to state laws or state agencies; and

Third, the program to be adopted should not be enacted into law by the Congress, but should be by agreement between labor and capital, with the government sitting in as the third party in interest.

When it came to getting into action under the last of these three propositions, the immediate difficulty was to find authoritative spokesmen for either labor or capital. The American Federation of Labor included in its membership at that time only a fraction of the workers of

the country, and there was no spokesman for unorganized labor; indeed, by reason of the very fact of its being unorganized there could be none. Employers were associated in various groups such as the National Industrial Conference Board and the National Manufacturers' Association, but none of these was all-inclusive. Both the American Federation of Labor and the employers' groups named were truly representative of the respective parties to industry, however, and in the circumstances it was but logical that the program should be worked out largely through them.

These bodies were represented in the personnel of the Advisory Commission of the Council of National Defense created by President Wilson, and on April 6, 1917, the first war labor policy was officially promulgated when the Advisory Commission approved a resolution prepared by its committee on labor of which Samuel Gompers, President of the American Federation of Labor, was chairman. This resolution, historically important and illuminating, was as follows:

The defense and safety of the nation must be the first consideration of all patriotic citizens. To avoid confusion and facilitate the preparation for national defense and give a stable basis upon which the representatives of the government may operate during the war, we recommend:

First. That the Council of National Defense should issue a statement to employers and employees in our industrial plants and transportation systems, advising that neither employers nor employees shall endeavor to take advantage of the country's necessities to change existing standards. When economic or other emergencies arise requiring changes of standards, the same should be made only after such proposed changes have been investigated and approved by the Council of National Defense.

Second. That the Council of National Defense urge upon the legislatures of the States, as well as all administrative agencies charged with the enforcement of labor and health laws, the great duty of rigorously maintaining the existing safeguards as to the health and welfare of the workers, and that no departure from such present standards in State laws or State rulings affecting labor should be taken without a declaration of the Council of National Defense that such a departure is essential for the effective pursuit of the national defense.

Third. That the Council of National Defense urge upon the legislatures of the several States that, before final adjournment, they delegate to the governors of their respective states the power to suspend or modify restrictions contained in their labor laws when such suspense or modification shall be requested by the Council of National Defense; and such suspensions or modifications, when made, shall continue for a specified period and not longer than the duration of the war.

Ten days after the adoption of the foregoing, the Executive Committee adopted the following amplification of what was meant by the phrase "existing standards":

There have been established by legislation, by mutual agreement between employers and employees, or by custom, certain standards constituting a day's work. These vary from seven hours per day in some kinds of work to twelve hours per day in continuous operation plants. The various states and municipalities have established specific standards of safety and sanitation and have provided inspection service to enforce the regulations. They have also established maximum hours of work for women, and minimum age limits for children employed in gainful occupations. It is the judgment of the Council of National Defense that the Federal, State, and Municipal governments should continue

to enforce the standards they have established unless and until the Council of National Defense has determined that some modification or change of standards is essential to the national safety; that employers and employees in private industries should not attempt to take advantage of the existing abnormal conditions to change the standards which they were unable to change under normal conditions.

The one other standard that the Council had in mind was the standard of living. It recognizes that the standard of living is indefinite and difficult to determine, because it is in a measure dependent upon the purchasing power of wages. It believes, however, that no arbitrary change in wages should be sought at this time by either employers or employees through the process of strikes or lockouts without at least giving the established agencies, including those of the several States and of the government, and of the mediation board in the transportation service and the Division of Conciliation of the Department of Labor in the other industries, an opportunity to adjust the difficulties without a stoppage of work occurring. While the Council of National Defense does not mean to intimate that under ordinary circumstances the efficiency of workers is the only element that should be taken into consideration in fixing the hours of labor, safety, sanitation, women's work and child labor standards, such efficiency is the object that must be attained during the period when the Nation's safety is involved. It may therefore be necessary for the Council as a result of its investigations and experience to suggest modifications and changes in these standards during that time. It is not the purpose of the Council, however, to undertake to determine the wage rate that will be sufficient to maintain the existing standards of living. Such questions as can not be adjusted by private negotiations should be referred to the mediation agencies above referred to, or to such

other constituted agencies as may exist, to the end that such questions may be adjusted in an orderly and equitable manner to avoid the stoppage of industries which are so vital to the interests of the Nation at this critical time.

From these pronouncements, it is clear that it was the original intention to center control of labor questions, particularly with respect to wages, hours and conditions of employment, in the Council of National Defense.

The utter impracticability of that was speedily demonstrated. The Council had too much to do, too little time to do it in, and too few men to do it with. Contracts were being let and war production started by a dozen different departments and procurement divisions, shipbuilding was undertaken on a stupendous scale, the operation of the railroads was taken over by the government, the food and fuel administrations were created, and in every branch of these manifold activities labor troubles, vexatious, harassing, but inevitable, were developing.

Living costs mounted with leaps and bounds and wages had to be adjusted thereto, for men must live in order to work. This was the fundamental cause of most of the grievances, but it should be stated that some of the wage demands were not free from selfishness and an apparent purpose to profit from the war emergency.

However, whatever the causes, conditions and not theories confronted the government, and, in order to cope with the situation as quickly and as effectively as possible, labor adjustment boards were established in the War and Navy departments and their several procurement divisions, in the Shipping Board, in the Railroad Administration, and in the Fuel Administration.

These agencies functioned, or endeavored to function,

along lines conforming to the declaration of policy laid down by the Council of National Defense. What became known as the Baker-Gompers Agreement was also accepted as definitive of the general governmental policy. This agreement, entered into between Secretary of War Baker and President Gompers of the American Federation of Labor on June 19, 1917, was originally intended to cover only the construction of cantonments, but later it was extended to cover all construction work done by the War Department. It was as follows:

For the adjustment and control of wages, hours and conditions of labor in the construction of cantonments, there shall be created an adjustment commission of three persons, appointed by the Secretary of War; one to represent the Army, one the public and one labor; the last to be nominated by Samuel Gompers, member of the Advisory Commission of the Council of National Defense, and President of the American Federation of Labor.

As basic standards with reference to each cantonment, such commission shall use the union scale of wages, hours, and conditions in force on June 1, 1917, in the locality where such cantonment is situated. Consideration shall be given to special circumstances, if any, arising after said date which may require particular advances in wages or changes in other standards. Adjustments of wages; hours or conditions made by such boards are to be treated as binding by all parties.

* (The American Federation of Labor scored a decided victory for organized labor when this agreement was effected, for the result was to establish union rates, hours, and conditions of employment as the prevailing standards in virtually every section of the country. It was a demonstration to unorganized workers of what the union

could and would do for them, and there is no doubt that it had much to do with the rapid war-time growth of the membership of all the unions. *

Stabilization of labor conditions, however, did not follow the declarations of the Council of National Defense and the publication of the Baker-Gompers Agreement. One factor that contributed largely to this was the idea that prevailed in the minds of many employers that the war would be of short duration. These employers contended that it was neither just nor wise to upset general industrial conditions for a brief period, and they protested that the government was being stampeded into making concessions to labor that would render the reorganization of industry on a peace basis extremely difficult. They resented governmental interference with what they regarded as purely private business and they feared the spread of unionism.

Consequently, such employers resisted all changes in labor standards which they believed would inure to the advantage of the workers, and individuals among them finally went so far in adherence to the idea that they could run their business in their own way to suit themselves, that the government was forced to take over and operate their plants. Labor leaders, on the other hand, realized that whether the war was to be of short or long duration it afforded the workers an opportunity such as they had never had before and might never have again, and they were keen to press for every advantage that the emergency offered.

It is not to be understood that labor invariably got all that it asked in every instance, but in most cases the compromises and settlements reached were to the distinct advantage of the workers. Such is the fact, as established by experience and research, irrespective of

whether the workers got more or less than they were entitled to as a matter of economic justice.

The fact that there were a dozen or more labor adjustment agencies, each working independently of the other, also contributed materially to the failure to attain stabilization of labor conditions during the early months of the war. It also pointed the necessity for the coordination and centralization of this work.

To this end, there was created in January, 1918, a War Labor Conference Board, charged with the responsibility of working out a permanent war labor policy. This Board was composed of equal numbers of representative employers and labor leaders, appointed by the Secretary of Labor upon the nomination of the National Industrial Conference Board and the President of the American Federation of Labor.

The deliberations of this Board continued for several months and resulted, early in the spring of 1918, in the announcement by the government of a reorganization of its labor administration, centering control in the Department of Labor. In this reorganization, the two most important developments were the creation of the War Labor Policies Board and the National War Labor Board.

As its name implies, the War Labor Policies Board was to be the formulator of the labor policies of the government and, acting through the various departments, the administrator of those policies. It was composed of representatives from each department of the government controlling war labor, with Dr. Felix Frankfurter, assistant to the Secretary of Labor, as chairman. Chairman Frankfurter in the Official Bulletin of May 17, 1918, explained the program of the Board, stating that it would fix wage standards "to be determined for all

industry in a given section of the country, after investigation disclosing the conditions of living, including the cost of living and the service rendered."

"To bring about a settlement, by mediation and conciliation, of every controversy arising between employers and employees in the field of production necessary for the effective conduct of the war," was the broad, generic function of the National War Labor Board. Its powers, its principles and its work will be detailed in the succeeding chapter.

CHAPTER IV

THE SUPREME COURT OF INDUSTRY

Created without any action by the Congress of the United States and without direct Congressional sanction, but under the broad war powers of the President delegated to him by the Congress, the National War Labor Board became the supreme court of industry. It was the first national tribunal of its kind ever established; in some cases it was the court of original action, in others the court of last resort, but in all, the court from which there was no appeal. Its jurisdiction was as wide as the scope of industrial activities affecting directly or indirectly the carrying on of the war; its powers were as broad as the authority which created it.

Out of the travail and confusion of the first ten months of the war two vital needs became evident:

1. The necessity for uniformity of action among the procurement departments of the government in fixing wages and hours; and

2. The need for an industrial policy on the part of the government, or an agreement as to principles regulating industrial relations and conditions between employers and employees, which the government could sanction, and which would not only guarantee war work against strikes and other causes of interruption, but would also, while fully protecting employees in their fundamental rights, actually result in an acceleration of war production.

To meet these needs, as has been stated, the War Labor Conference Board was organized by the Secretary of Labor, under the authority of the President, and when its recommendations as to the creation of a National War Labor Board and its principles and policies were accepted by the President, the latter by executive order constituted the War Labor Conference Board as the National War Labor Board.

Its personnel consisted of five representatives of employers, selected by the National Industrial Conference Board, a federation of associations of employers, five representatives of the American Federation of Labor, and two joint-chairmen, representing the public, one of whom was nominated by each group. The employers' group selected as their joint-chairman the Hon. William H. Taft, former President of the United States, while the labor group named the Hon. Frank P. Walsh, former chairman of the National Industrial Commission.

The official proclamation wherein the President established the National War Labor Board, designated its membership, enumerated the functions, powers and duties of the Board and set forth the principles and policies which were to govern relations between workers and employers in war industries, was issued April 8, 1918.* The Board organized with its headquarters in Washington and began its work immediately thereafter. The principles which were mandatory upon its deliberations and action were as follows:

* See Appendix.

PRINCIPLES AND POLICIES TO GOVERN RELATIONS BETWEEN WORKERS AND EMPLOYERS IN WAR INDUSTRIES FOR THE DURATION OF THE WAR

There should be no strikes or lockouts during the war.

RIGHT TO ORGANIZE.

The right of workers to organize in trade-unions and to bargain collectively through chosen representatives is recognized and affirmed. This right shall not be denied, abridged, or interfered with by the employers in any manner whatsoever.

The right of employers to organize in associations or groups and to bargain collectively through chosen representatives is recognized and affirmed. This right shall not be denied, abridged, or interfered with by the workers in any manner whatsoever.

Employers should not discharge workers for membership in trade-unions, nor for legitimate trade-union activities.

The workers, in the exercise of their right to organize, should not use coercive measures of any kind to induce persons to join their organizations nor to induce employers to bargain or deal therewith.

EXISTING CONDITIONS.

In establishments where the union shop exists the same shall continue, and the union standards as to wages, hours of labor, and other conditions of employment shall be maintained.

In establishments where union and non-union men and women now work together and the employer meets only with employees or representatives engaged in said establishments, the continuance of such conditions shall not be deemed a grievance. This declaration, however, is not intended in any manner to deny the right or discourage the practice of the formation of labor-unions

or the joining of the same by the workers in said establishments, as guaranteed in the preceding section, nor to prevent the War Labor Board from urging or any umpire from granting, under the machinery herein provided, improvement of their situation in the matter of wages, hours of labor, or other conditions as shall be found desirable from time to time.

Established safeguards and regulations for the protection of the health and safety of workers shall not be relaxed.

WOMEN IN INDUSTRY.

If it shall become necessary to employ women on work ordinarily performed by men, they must be allowed equal pay for equal work and must not be allotted tasks disproportionate to their strength.

HOURS OF LABOR.

The basic eight-hour day is recognized as applying in all cases in which existing law requires it. In all other cases the question of hours of labor shall be settled with due regard to governmental necessities and the welfare, health, and proper comfort of the workers.

MAXIMUM PRODUCTION.

The maximum production of all war industries should be maintained and methods of work and operation on the part of employers or workers which operate to delay or limit production, or which have a tendency to artificially increase the cost thereof, should be discouraged.

MOBILIZATION OF LABOR.

For the purpose of mobilizing the labor supply with a view to its rapid and effective distribution, a permanent list of the numbers of skilled and other workers available in different parts of the country shall be kept on file by the Department of Labor, the information to be constantly furnished—

1. By the trade-unions.
2. By State employment bureaus and Federal agencies of like character.
3. By the managers and operators of industrial establishments throughout the country.

These agencies shall be given opportunity to aid in the distribution of labor as necessity demands.

CUSTOM OF LOCALITIES.

In fixing wages, hours, and conditions of labor, regard should always be had to the labor standards, wage scales, and other conditions prevailing in the localities affected.

THE LIVING WAGE.

1. The right of all workers, including common laborers, to a living wage is hereby declared.

2. In fixing wages, minimum rates of pay shall be established which will insure the subsistence of the worker and his family in health and reasonable comfort.

It was originally intended that the Board should pass only upon principles, or, to use a legal phrase, upon questions of pure law. It was planned that each procurement department of the government should, by the boards already instituted, or by the creation of similar agencies, pass upon questions of fact relative to wages, hours, and working conditions. It was further planned that the procurement departments of the government should, by agreement with boards constituted equally of employers and employees, from the basic industries, establish a uniform and standardized policy as to hours of work and rates of pay. The National War Labor Board would, under these conditions, therefore, have been a board of ultimate appeal in cases where it was claimed that there had been an infraction of its fundamental principles, and in some other classes of cases, as, for example, where there was a clash in jurisdiction

between two subordinate boards. No questions as to facts were to be subject to appeal to the National War Labor Board.

These plans were never fully carried out before the close of the war period. Because of the failure to create subordinate boards in some procurement departments of the government and in certain industries, the National War Labor Board had to take primary jurisdiction in a great many cases, and in addition to the interpretation and application of fundamental principles, pass upon questions of fact involving wages, hours, and working conditions.

Events and unforeseen contingencies and emergencies always anticipated plans in the case of the National War Labor Board as in every other branch of the government's war activities. The essential purpose of the Board was to see that there was no interruption of or interference with war production. Often, when a strike occurred or was threatened, the workers would be satisfied with nothing less than the assurance that the National War Labor Board would consider their grievances and render a decision as speedily as possible, and if this necessitated the overturning of plans by which such cases should have been passed upon first by a subordinate agency it was done, nevertheless, in almost every such instance. The end desired and attained was held to justify the throwing of procedure and precedent to the winds—the short cut was taken.

The proclamation of the President creating the Board, conferred upon it jurisdiction in all controversies "in fields of production necessary for the effective conduct of the war, or in other fields of national activity, delays and obstructions in which might, in the opinion of the National Board, affect detrimentally such production."

The jurisdiction, as regards subject matter, thus conferred upon the Board was extremely broad, inasmuch as in the reorganization of industry on a war basis there existed very few business activities which did not affect, directly or indirectly, the effective conduct of the war. This is indicated by the fact that the Board dismissed fewer than fifty complaints on the ground that war production was not involved, and by the wide range of cases considered, which included all kinds of manufacturing plants, mining, street railways, laundry workers, and even the grievances of firemen employed by two or three cities.

The cases which came to the Board on appeal from decisions of other boards were few. Perhaps the most important of these was the New York Harbor case, which came up on appeal from the New York Harbor Wage Adjustment Board in an emergency that threatened to paralyze the port of New York.

A very large number of cases, however, came to the Board by way of reference from other adjustment and conciliation agencies which had been unable to adjust the matters in controversy.

During the war period the Board accepted both joint submissions and *ex parte* complaints. The former were cases in which both the employers and the employees affected agreed to submit their differences to the National War Labor Board and to abide by its decision. A unanimous vote of the Board was necessary to an award in cases jointly submitted, and, failing this, an umpire was chosen from a panel nominated by the President of the United States. The umpire's decision thereupon became the award of the Board.

Ex parte cases were those in which complaints were submitted either by the employer or by the employees,

with no agreement to accept or to abide by the Board's decision. In these cases findings were made by majority vote of the Board.

The processes* by which the Board accomplished its work are interesting. Formally presented cases came in documentary form, duly setting forth the terms of the joint submission or the grievances of the *ex parte* complaint. They were duly entered upon a docket and given numbers in the order in which they were filed. Emergency cases, and at the height of the war operations they were not infrequent, were in some instances first presented by telegram or by long distance telephone. Such cases were accepted upon assurance that the men involved would return to work, or continue at work, that the *status quo* would be maintained, and that the formal written submissions or complaints would be filed promptly.

At the outset of the Board's work it was thought that beneficial results might be obtained by having representatives, designated by the employers' and employees' groups, make preliminary investigations in each case. It was expected that these special field representatives might be successful in mediating or adjusting differences, or could prepare special reports as to the facts involved for the consideration of the Board. Later, these special field representatives were instructed to assist the parties to a controversy in preparing their cases for hearings. This procedure, while sound in theory, did not work out satisfactorily in actual practise, for the reason that it tended to extend or to accentuate the original differences as to which complaint had been made. As a consequence, in the procedure as finally adopted by the Board the use of special field representatives was discontinued.

* See Appendix.

Theoretically, the cases were to be taken up and disposed of in the order of their appearance on the docket. In actual practise this orderly process was constantly interrupted by the consideration of cases of great emergency, or cases in which unusual pressure was brought to bear from one source or another for immediate action.

It was the original intention that the Board as a whole, or sections thereof—a section being composed of one or more members from each group—should hear the evidence in each case, but the number of cases submitted soon became so great as to make this impossible. Examiners were then designated to hold the hearings, and such hearings almost entirely supplanted hearings before the Board or sections. In addition to the heavy requirement of considering the testimony secured by the examiners the Board heard only cases of peculiar difficulty, or listened to oral argument in cases in which the testimony had previously been submitted to examiners.

Examiners' hearings were usually held at the place of the controversy as a matter of economy of both time and money. Board meetings were held in Washington as a rule, altho there were sessions in New York, Philadelphia, Bridgeport, Chicago, and other cities.

After the testimony in a case had been heard, the record was analyzed and digested by a corps of experts and the transcript was then sent to the section of the Board to which the case had been assigned. If the section could agree upon an award or finding, its decision was almost invariably ratified by the full Board.

The National War Labor Board was given no legal authority to enforce obedience to or compliance with its decisions. In cases of joint submission the parties had, of course, the right of legal redress as in all cases of

violation of contract. Otherwise the execution of the Board's decisions depended upon the support of public opinion, the support of other governmental agencies, and the obligation laid upon employers and employees by their chosen representatives in the formation of the Board and the drafting of its principles.

Particularly during the period of active hostilities the powers of the procurement departments of the government—such as the War and Navy departments—were very great, and these powers, as well as the influence of the President himself, were constantly and consistently used in support of the awards and findings of the Board. In one of the early cases brought before the Board, the Western Union Telegraph Company declined to comply with the decision of the Board that discrimination on account of membership in trade-unions should be discontinued forthwith and that the company should reinstate employees discharged by it for having joined a union. When the President was informed of the company's attitude, an executive order was immediately issued directing that the Postmaster-General take over and operate the telegraph companies for the period of the war.

Two other noteworthy examples of the use of the executive power to enforce the mandates of the National War Labor Board came at the most critical stage of active hostilities. One was the Bridgeport case in which several thousand workers refused to return to work at the wage rates and under the conditions prescribed by the Board; the other was the Smith & Wesson case in which the Smith & Wesson Company declined to abandon its practise of discriminating against union men. Fortunately, the two cases came to a climax simultaneously, and the President found it possible to dispose

of them in a single order* in which he directed the Bridgeport employees to return to work under penalty of forfeiting their exemptions from military duty and their opportunity of employment in other communities, and instructed the Secretary of War to take over and operate the Smith & Wesson plant.

The President's action in these cases was extremely salutary as it gave evidence that his power would be used impartially, against employers and employees alike; it also enhanced greatly the prestige and authority of the National War Labor Board.

However, the outstanding fact is that, as long as active war was in progress, the decisions of the Board were accepted almost without exception both in *ex parte* cases and in cases of joint submission. After the armistice, the changed industrial conditions, the questioning in some quarters as to the Board's authority in the intermediate period between the armistice and the proclamation of peace, and the uncertainty in some minds as to the continued existence of the Board, combined to create a condition in which the Board's decisions were less spontaneously accepted.

The policy of the Board was to encourage to the greatest possible extent the self-administration of its decisions. In practice, however, it was found that even the most carefully drawn awards almost invariably left room for divergent interpretations. If the differences were small, adjustments were made by correspondence, but, in the case of major differences, the sending of an examiner as an interpreter and administrator proved to be the only alternative to having the parties bring their difficulties direct to the Board. The demand for such service was peculiarly acute in cases where the awards

* See Appendix.

provided for collective bargaining in plants where collective bargaining had not existed previously. Often the parties in such cases were completely at a loss as to how to begin such a system, and imperatively needed the assistance of some one familiar with the processes of installing shop-committee systems.

The administration of the street-railway awards was susceptible of a high degree of standardization. They had a common authorship, all of them having been written by the joint-chairmen; they related to a single industry of remarkably homogeneous character; and, usually, the employees were highly organized and both parties had been accustomed to collective bargaining.

The industrial awards, on the other hand, presented a bewildering variety of conditions, and, in many instances, necessitated the classification of occupations and the installation of elaborate machinery for collective bargaining. The committee system evolved in the Bridgeport case,* which covered more than sixty establishments, employing 60,000 persons, was made the standard for that branch of the administrative work, and it is of interest to note that the system of departmental and works committees established under the Bridgeport award has been accepted by both employers and employed as a permanent institution.

The National War Labor Board functioned actively during a period of thirteen months, from May 30, 1918, to May 31, 1919. It was not formally dissolved by the President until August 15, 1919, but during the last two and a half months of its existence little was done aside from disposing of details incident to dissolution.

At the close of the thirteen months' period noted the Board had received a total of 1,270 cases, 25 of

* See Appendix.

which were consolidated with other cases, leaving 1,245 separate controversies. Awards or findings were made in 462 cases, with 58 supplemental decisions in cases where action had already been taken, making a total of 520 formal awards or findings. Of the remaining cases, 391 were dismissed, 315 were referred to other boards or adjustment agencies, 23 were pending, and 54 remained on the docket because the Board was unable to agree as to their disposition.

Of the cases removed from the docket of the Board without action by formal award or finding, the greater number were dismissed without prejudice because of a lack of prosecution, or because the Board was advised that the parties involved had entered into a formal agreement and no further action was necessary.

More than 1,100 establishments employing approximately 700,000 persons were directly affected by the awards and findings of the Board. These numbers, it is to be emphasized, include only those specified directly in the terms of the decisions. In many cases the decisions were applied in practise to other employees of the plants than those in whose names the controversies were filed. Frequently, also, a decision in regard to one company was accepted by other companies similarly situated, and in many instances controversies were settled voluntarily or by other adjustment agencies on the lines laid down by existing decisions of the Board. Indeed, the principles and precedents of the Board had a vastly wider influence and acceptance than is indicated by any mere numerical statement of the number of persons directly affected by its decisions, and it may be stated, therefore, that the record of the Board unquestionably has never been approached by any similar agency in the history of industry.

The signing of the armistice found the Board in the midst of the most intense period of its activities. Immediately a discussion and some little dissension arose as to the continuance of the Board's work, the point being urged that with the cessation of active hostilities the war was practically at an end and the purpose for which the Board had been created had been accomplished. President Wilson, however, requested that the Board continue to function during the period of transition from war to peace, and it was so ordered, altho it was determined by resolution of the Board that no new cases except joint submissions would be received after December 5, 1918.

The benefits of the work of the National War Labor Board may be said to have been threefold:

1. To the government or public, uninterrupted production of war munitions and supplies.
2. To the wage-earner, increases in rates of pay approximating advances in the cost of living and the establishment of fundamental rights such as that of collective bargaining.
3. To the employer, stability in and acceleration of production.

The United States came through the war with an enviable record in industry. The prosecution of the war and the effectiveness of our fighting forces in France were never interfered with or jeopardized by strikes or other labor troubles at home. There were hundreds of incipient strikes, it is true, and innumerable controversies that threatened serious trouble, but these difficulties were ironed out before they attained formidable proportions or had produced any disastrous results. This may be ascribed in part to the patriotism of American workers,

men and women, and American employers, and their willingness to subordinate selfish interests to the general good, but it must be attributed more largely to the fact that the government wisely provided adequate machinery wherewith industrial disputes and controversies could be adjusted and settled, with the assurance that both sides would receive substantial justice and a square deal.

This may be said to have been the first nationwide experiment in rational industrial democracy which contemplated no overturning of established institutions. It demonstrated that the necessary preliminary to all other considerations is the development of a spirit of understanding and cooperation. Labor, through the centuries, has come to look upon itself as an exploited class. Capital, on the other hand, even when inclined to be sympathetic, has tended to look upon the aims and leadership of labor with distrust, because of the fear of an arbitrary use of power, or misguided restriction upon output or costs of production.

The war lessened this feeling on both sides to a remarkable extent. The experience of the National War Labor Board almost invariably was that alleged grievances and troubles on both sides oftentimes practically disappeared by the mere bringing of the contending parties together for discussion. Misunderstandings melted away upon frank consideration of mutual aims and interests. Employers came more and more to the realization that the administration of industry was to a greater or less degree linked inseparably with considerations of the public welfare, and that industrial workers have certain fundamental rights and privileges. The employees, on the other hand, also had it impressed upon them that the attainment of their aspirations as to economic rights and economic well-being is conditioned

upon the proper maintenance and acceleration of production. They undoubtedly came to a greater measure of understanding that the well-being of all those engaged in industry depended upon cooperation along the lines of certain principles and standards.

Governmental handling of war-time labor problems proved that industry and the public welfare *can* be safeguarded against the autocratic tendencies of either capital or labor; it proved that the economic waste of strikes and lockouts *can* be avoided.

In concluding this presentation of the work of the National War Labor Board, and with particular reference to the discussion that is to follow, especial stress is laid upon this outstanding fact:

From the time of its creation until the date of the Board's final dissolution, August 15, 1919, there was not a single strike involving an entire industry, or of national proportions; *within less than three months after the Board went out of existence the country found itself in the throes of two great strikes, steel and coal, that threatened total industrial paralysis.*

CHAPTER V

THE NEED OF AN INDUSTRIAL CODE

Statesmen and economists are agreed that increased production is the one overshadowing need of the world today, if the blighting waste incident to the war is to be recouped; if the nations involved in the conflict are to be saved from bankruptcy; if, indeed, civilization and its institutions are not to totter and fall. Captains of industry declare it to be the only solution of the problem of high wages and increased production costs and of high prices and profiteering. Politicians hail it as the short and unanswerable answer to most of the troublesome questions of the hour, and lawmakers find it a bulwark behind which they may take refuge when attacked for their failure to provide legislative panaceas for industrial and economic ills. Intelligent labor leadership—leadership that realizes that in the long run the individual or group cannot take from society more than he or it contributes—accepts it as the *sine qua non* of real progress for the labor movement. Churchmen who can see and understand that religion is not a garment, that moral platitudes are not food, and that pious zeal fires but does not warm, are urging it as the first precept of applied Christianity.

Increased production! It is more than a necessity. It is in itself a problem—a problem as old as civilization, as old as the first aspirations of primitive man to improve his condition. It dates from man's first realization that leisure might and should be more than a period of inertia superinduced by a gorged appetite. Its work-

ing out has been indicated in every human activity since the days when it was ordained by nature that primeval men, in striving to preserve the existence of the tribe, should not only acquire the arts of agriculture, domestication, and navigation; not only discover fire and its manifold uses in cooking, war, and metallurgy; not only detect the hidden properties of plants and herbs; not only learn to supplement the hand with machinery and to substitute barter for taking by force; but should also, through the processes of the long life-struggle, be developed into moral beings. Every advance in human skill, every invention, every discovery of science, every development in the social structure, has been directly or indirectly to the end that man's productivity might be multiplied. Making two blades of grass grow where but one grew before has been the accepted standard of the individual's contribution to society, and it has become axiomatic that poverty lurks where production lags.

All this has come about through man's constant striving to better himself. He has increased and diversified his production in order that he may be able to consume more, or, in other words, in order that he may improve and advance his standard of living. Thus it follows that the higher a nation's standard of living is, the greater is its need of increased production.

For years, living standards have been generally higher in the United States than in any other country on the globe. Today, as one of the direct results of the war, they are appreciably higher than they have ever been before. There is no escaping or denying that fact. And it is that fact, even more than the pressure of the vast debt incurred through our participation in the war, which makes constantly increasing production of farm, mine, and mill an absolute necessity.

Two questions of immediate importance, therefore, are presented: 1. Is it possible to secure generally increased production? 2. How can increased production be brought about?

The first of these questions may be answered with a simple affirmative and dismissed from further consideration. The second question opens up a wide field, but for present purposes it suffices to lay down this postulate: *The first requisite to increased production is that there must be reasonably contented and satisfied workers in every field of production, and this is impossible so long as there is constant irritation and friction, with frequent economically disastrous conflicts, between capital and labor, between employer and employee.*

Doubtless there are many employers, and some students of industry as well, who will greet this with the derisive comment that a "contented and satisfied worker" is as rare as the dodo. Out of their experience and observation they are fixed in the belief that the demands of labor are insatiable; that the more workers get, the more they will ask. To any and all such it is only necessary to emphasize the use of the word "reasonably," and to point out that there are numerous industrial plants in the United States that have never had a strike, or even a serious threat or prospect of a strike, comparatively speaking. Attention may also be directed to a recent inspiring spectacle in one of our great cities,* where the employees of a traction company voted to forego a wage increase already granted them when the president of the company explained its financial condition to them and asked them to waive their right to the wage increase until the company's revenues could be

* This action was taken by employees of the Philadelphia Rapid Traction Company, Philadelphia, in 1920.

increased. There *are* reasonably contented and satisfied workers in many lines of industry, and there should be throughout industry as a whole.

Whether or not, however, there is any general acceptance of that statement, there can be no disagreement as to the condition laid down as the first requisite to increased production. Economic necessity is the only force that can drive men to work in this country and in this day and age, and even that force can not drive them to sustained effort, or hold them to a sustained purpose, to return a maximum day's service for their daily wage. Workers must be reasonably contented, they must be reasonably satisfied, and there must be no sabotage, no strikes, no lockouts and no shutdowns if there is to be hope even for *normal* production, to say nothing of *increased* production.

This calls for industrial peace, or approximate peace, with every obtainable guaranty that it will be permanent.

Industrial peace may be an ideal, but it must be remembered that for centuries political liberty was an ideal. From the dawn of history to the advent of George Washington and his compatriots, the peoples of the earth lived in periodic revolt against the tyranny of a despot or the savagery of a mob. Liberty was a torch, carried in the wind, lighted, snuffed out, relighted, again and again, but always carried forward, until in this new world it became a beacon, shrined and guarded for all time to come by the Constitution of the United States. That this ideal might not perish, that its blessings might be extended to the people of many nations, of various needs and creeds, the World War was fought and won.

In all reason, and in all fairness, therefore, we may maintain that a proposal looking to permanent industrial peace is not to be dismissed out of hand, or condemned,

on the ground that the end in view is an ideal, impossible of attainment. Rather, there should be inquiry, and careful scrutiny of all measures brought forward, with a sincere purpose to seize and hold fast to that which is good.

With the allaying of discontent arising from profiteering and unjustifiable prices, and from the injustices of wartime adjustments and practises, a more fundamental evil must also be corrected before there can be any satisfactory degree of stabilization, continuity and increase in production, and any reasonable expectation of industrial peace. The fact can not be escaped that industry is in the same position that our delay or failure to accept the Treaty of Peace forced upon the nations of the world. *There is no accepted basis of procedure, of general scope and application.* Employers and employees, as a whole, are actually or potentially at war with each other. The conditions affecting one principle essential to productive cooperation need only be cited in order to illustrate the present impossible industrial situation: the principle of organization and representation of industrial employees. This was the rock upon which the President's first Industrial Conference was wrecked. The union-labor movement demands recognition as a preliminary to cooperation. A large group of employers are attempting to evade union recognition by the formation of shop committees, and the application of various local plans or schemes of employees' representation. Another large body of employers wish to maintain an industrial autocracy without recognition of their employees on any terms. At the same time there is a considerable element of the public which favors extreme legislation, such as that recently enacted in the State of Kansas, as a means of dealing with a situation con-

stantly threatening the public welfare. And thus the conflict and friction extend throughout the whole range of industrial relations and conditions. In these circumstances, if industry is not headed for disaster, thoughtful students and observers, at least, can not see any earnest of successful cooperative effort in the future.

The permanent hope for the future, not only to those engaged directly in industry, but also to all other classes of the people, lies in wise, constructive industrial statesmanship which will start where the beginning of any constructive effort must be made, and lay a *foundation* upon which the structure of industrial relations may be reared. To promote and to preserve industrial peace, to insure equal and exact justice to both elements in industry, and to safeguard the public interest as well, there should be established an industrial code wherein there shall be defined and promulgated the fundamental principles which shall govern the relations of capital and labor with respect to

- (1) The right of employees and employers to organize;
- (2) The right of collective bargaining;
- (3) The right of labor to a living wage and of capital to a fair return;
- (4) The hours of labor;
- (5) The rights and relations of women in industry;
- (6) The right of labor to a voice in the control of industry;
- (7) The requiring of both employers and employees to fulfil their contractual obligations;
- (8) The right of the public to be protected against economic disturbances threatening the general welfare, which result from disagreements and conflicts between employers and employees.

Such a code would be in effect an industrial bill of rights. The organic law, or the Magna Charta, of industry, it might be termed. It would furnish the first essential toward uniformity and stability in the relations between employer and employee—an accepted basis of procedure.

Practical experience during the war and postwar periods indicates that it is idle to talk of permanent industrial peace until an industrial code shall have been established. It is mere expediency to settle or to adjust individual controversies in industries or in establishments, until there has been laid down the basic principles upon which *all* controversies are to be settled or adjusted. Until there is such a code, neither the employer nor the employee can face the future with any degree of security that his rights may not be infringed or invaded; each will continue to guard his selfish interests by the use or by the threat of economic force, and arbitrations and negotiated agreements will continue to be essentially trading proceedings in which the better trader triumphs, or, at the least, yields the minimum in return for what he gets. In the absence of a code, the public interest can not be safeguarded without the possibility that the rights either of capital or labor, or of both, will be abridged.

Experience and every consideration of expediency would seem to dictate the establishment of the proposed code. During the war period the principles and policies of the National War Labor Board constituted in effect such a code, and that its operation was salutary and efficient is borne out by the fact, already noted, that the United States came through the war without a serious interruption resulting from labor troubles of war production. There were strikes and there were disturbances,

but invariably they were of short duration. It was always possible to get the workers back on the job, to persuade them to keep the wheels of war production moving, when they were promised that their grievances would be passed upon by the National War Labor Board, because they knew that those grievances would be adjusted in conformity with certain fundamental principles which had been proclaimed by the President of the United States as the organic law to be followed by the Board in exercising its powers and functions and in performing its duties.

They knew that if they wanted to join trade-unions or to bargain collectively with their employers through representatives of their own choosing they would be protected in so doing against discharge or discrimination of any kind for legitimate trade-union activities, for that was the first principle of what may be termed the industrial code of the War Labor Board. They also knew, however, that they would not be permitted to use any coercive measures to induce their fellow workers to join the union, or to induce their employers to deal or to bargain with the union as such, for that was forbidden by the code.

They knew that if the establishment where they worked had been a union or closed shop prior to the war the employer could not change it to an open or non-union shop; and they also knew that they could not make a union or closed shop out of what had been an open or non-union shop prior to the war. The Board's principles provided that the prewar status with respect to the open or closed shop should be maintained during the war period.

If women workers were involved and they felt that altho they were doing men's work they were not receiv-

ing men's wages, they knew that this inequality and injustice would be corrected by the War Labor Board, for one of its principles decreed that "if it shall become necessary to employ women on work ordinarily performed by men, they must be allowed equal pay for equal work and must not be allotted tasks disproportionate to their strength."

The employees knew that if they could not agree with their employer in the matter of wage rates they were perfectly safe in leaving it to the War Labor Board to fix the scale, for, on the vitally important question of wages, the Board's principles provided: (1) "The right of all workers, including common laborers, to a living wage is hereby declared," and (2) "In fixing wages, minimum rates of pay shall be established which will insure the subsistence of the worker and his family in health and reasonable comfort."

Employers, on the other hand, knew that by appealing to the Board they would be protected against extortionate or unjust labor demands and that they could not be forced into recognizing and dealing with the unions if that had been their pre-war policy and practise.

The principles of the National War Labor Board—its industrial code, so to speak—were formulated through a compromise of the selfish interests and demands of both capital and labor. That compromise was effected on the basis that in the emergency of war the public interest, the national welfare, overshadowed any group interest. It was agreed that there should be no interruption of industry due to the exercise of arbitrary or autocratic power either by capital or by labor; that there should be no strikes or lockouts during the war. This policy had the sanction and approval of all enlightened and patriotic American citizens. It was accepted and

applauded as the only rational policy in a time when the very existence of the nation might be in jeopardy.

May it not be urged that a policy admittedly good in time of war is equally good in time of peace? If it was in the public interest to prevent strikes and lock-outs while the country was at war, would it not further the national well-being to prevent them for all time to come? And, what is more to the point of this discussion, if it was found necessary to establish an industrial code in order that there might be industrial peace and accelerated production during the war crisis, does it not follow that we must have an industrial code if we are to hope for permanent industrial peace and that stability and increasing volume of production so essential in the world's postwar crisis?

It should be borne in mind that strikes and lockouts were not made unlawful during the war period. Neither was there compulsory arbitration of such differences as arose between employers and employees. To have undertaken such a program would have been to invite civil war. The occasion, the necessity, for strikes and lockouts was removed when capital and labor in tripartite agreement with the government proclaimed the principles and policies which were to govern the relations of employers and employees, and when adequate machinery was provided for carrying out those principles and policies.

Without an industrial code, the present system governing relations in industry—and it was the prewar system—must continue. Under this system the determination of wages, hours, working conditions, labor's participation in the control of industry and its profits, and all other controversial matters, are left to the free play of economic forces. This means constant, or con-

stantly imminent, industrial strife and warfare. It means that employers as a rule will concede to employees just as little as possible—only that which can be wrested from them. It means that the demands of labor often will be excessive and unreasonable. It means high production costs and high prices of commodities, economic waste and inefficiency. It means the capitalistic domination of industry and the conduct of industry primarily for profit. It means the abandonment of the lessons learned from the war.

The worst indictment that can be brought against this system is its record. During the years 1919 and 1920 there were 6,736 strikes and lockouts in the United States, according to official governmental records, which are admittedly incomplete. In such of these strikes and lockouts as are reported in detail—less than seventy-five percent of the total number—5,571,001 workers were involved and a total of 111,810 working days were lost. The number of strikes and lockouts for these two years does not show an increase over the war period, for there were 6,205 during the nineteen months from the date of our entrance into the war until the signing of the armistice, November 11, 1918, but it may be noted that the number of workers involved was almost three and one-half as large in 1919 as in 1918.

These figures, which are compiled from the monthly publications of the Bureau of Labor Statistics of the Department of Labor, do not tell the whole story of the economic loss resulting from strikes and lockouts, for not all such disturbances are reported to the Bureau, and of those reported complete statistics as to the number of workers involved and days lost are furnished for only part.

Three elements enter into the cost of strikes and lock-

outs: Loss in wages to the employees, loss in profits to the employers, and loss to the public in various ways. When it comes to computing this cost, however, experts agree that it is a hopeless task. "For a time efforts were made to get at the cost of strikes," states the Bureau of Labor Statistics,* "but it has been found after a careful examination of the question that, except in a few isolated instances, not even their approximate cost can be ascertained. Even an exact statement of the time lost through strikes, and the amount of money losses in wages, interest, and profits, due to stoppage of work, were such a statement possible, would give a very inadequate idea of their real cost to the worker, the employer and the community in general; and the elaborate calculations of costs of strikes which make their appearance from time to time, generally under the title of estimates, are but mere guesses by the compiler, not statistical in character, and frequently incorrect in their conclusions."

Illustrative of the impossibility of translating strike losses concretely into dollars and cents, the case of the steel strike of 1919-1920 may be cited. This strike continued officially for 108 days, but it was not at its height until some days after the walkout began, and toward the close the number of workers out dwindled from week to week, so that its actual duration probably was not half so long. Again, the claims of the strikers and the employers as to the maximum number of men involved range from 140,000 to 370,000, so that in computing the man days lost the result might be anywhere from 2,000,000 to 40,000,000.

Thus, estimates as to the cost of the steel strike to the strikers vary from \$10,000,000 to \$87,000,000, while

* "Cost of Strikes," in the Labor Review for September, 1920.

the loss to the employers is placed at from ten per cent to twice the wage loss to the workers. The loss to the public is the natural result of an estimate based on widely varying estimates.

Certain it is, however, that the direct wage and production loss incident to the steel strike was very great, and that its evil effects were felt in almost every avenue of business and extended into almost every line of industry. To a greater or less degree, this is true of every breach of the industrial peace, and in the final aggregate the economic waste resulting from breakdowns in the relations between employer and employee is nothing less than appalling.

Another criticism of the existing system of relations in industry is that where agreements are entered into between employer and employee they are necessarily local as to an industry, to a community (such agreements are rare), or to an establishment. This leads to inequalities as between industries; as between sections of the same industry; as between localities; and as between establishments or plants in the same locality, and is appreciably responsible for the large labor turnover that is the bane of American industry. Labor will go where wages and working conditions are most attractive and desirable, and is migratory in this respect. Standardization and stability, accordingly, are benefits to be derived from the practical application of an industrial code.

A still further criticism of the present system is that where resort is had to arbitration proceedings, such arbitrations are not based upon principles, but are largely mere compromises of contending claims and demands and rarely suffice to clear the atmosphere of discord and strife. Thus, in the bituminous and anthracite coal cases

of 1920, the arbitration boards fixed wage rates for the respective mining groups that were widely dissimilar altho the occupations are practically identical, and in neither case was the wage scale acceptable to the workers, with the result that it was found necessary to reopen both cases and to adjust obvious inequalities and injustices.

What is of more striking importance in this connection, however, is that neither arbitration board accepted the same principle as a basis for wage fixation. The Bituminous Coal Commission began its deliberations in January, 1920, and rendered its decision the following March. It adopted the principle of a living wage—a minimum standard of reasonable health and comfort—as the primary basis for its award, and considered the increased cost of living as a secondary factor. Only five months later the Anthracite Coal Commission rendered its decision after exhaustive hearings and investigation. It reversed the attitude of the Bituminous Coal Commission, by basing advances in rates of pay to anthracite workers upon the increased cost of living, and did not extend judicial notice to the living wage principle which had been the foundation of the bituminous award. A lack of a common law or code in industry which would make for stabilization and industrial peace is vividly illustrated by these two arbitrations. The anthracite mine worker could not understand, of course, such a system for the judicial settlement of labor disputes. If the living wage principle as applied to the soft coal industry resulted in a minimum daily wage of \$6.50, he could not understand why a similar arbitration board within five months should discard this principle in favor of the principle of increased cost of living which gave the hard coal worker only \$4.50 as a minimum daily wage.

The Railroad Labor Board, created by the Esch-Cummins Act of 1920, under which the railroads were returned to private ownership, discovered early in its work the need of an industrial code, or the equivalent thereof, and in the spring of 1921, the Board promulgated a set of sixteen cardinal principles which should govern the relations and negotiations between the carriers and the railway workers. This action of the Board will be discussed in detail in a later chapter and is referred to here merely as evidence of the growing recognition of the fact that there must be a basis of procedure before we can proceed intelligently and effectively to deal with the problems of industrial relations.

It remained for President Harding, however, to give utterance officially and authoritatively to the demand for, as well as the need of, an industrial code. On December 6, 1921, President Harding became of record an advocate and champion of the code idea. In his first message to a regular session of the Congress of the United States the new President on that day discussed industrial questions at length and declared, in effect, that the temple of peace in industry can only be builded upon a foundation of elemental law. He said:

In an industrial society such as ours the strike, the lockout, and the boycott are as much out of place and as disastrous in their results as is war or armed revolution in the domain of politics. The same disposition to reasonableness, to conciliation, to recognition of the other side's point of view, the same provision of fair and recognized tribunals and processes, ought to make it possible to solve the one set of questions as easily as the other. I believe the solution is possible.

The consideration of such a policy would necessitate the exercise of care and deliberation in the construction

of a code and a charter of elemental rights, dealing with the relations of employer and employee. This foundation in the law, dealing with the modern conditions of social and economic life, would hasten the building of the temple of peace in industry which a rejoicing nation would acclaim.

As to the specific provisions of the proposed industrial code—as to the declarations it should contain on any or all of the subjects that have been enumerated, or upon such other subjects as it might be deemed advisable to include—succeeding chapters will present the relevant data and the best obtainable conclusions relating thereto. It should be pointed out at this juncture, however, that there is a world-wide consensus of thought and opinion, not only that the code should be established, but as to the basic principles that should be enunciated in such a code. Expressions of this consensus of thought and opinion are to be found in the principles and policies of the National War Labor Board, already referred to in detail; in the labor provisions of the Peace Treaty; in legislation and trade agreements in England, New Zealand, Canada, and Australia, as well as in this country; in the declarations of the churches of all denominations and creeds, and in the writings and public utterances of the leading statesmen, publicists and economists of all countries. There is no dearth of material with which to work, and it should be no difficult task to choose from it all that which is good, that which is right, and that which will endure.

There is nothing revolutionary in the idea of an industrial code. There would be nothing revolutionary in its establishment. On the contrary it would be the fruition of the orderly processes of evolution. None is so blind as not to see that the labor movement is no longer

a mere struggle for higher wages and shorter hours. Fundamentally, it is concerned with the principles underlying the relations of the worker to industry and his rights in industry, and, consciously or unconsciously, labor leadership has made wage advances and improvements in working conditions steps toward the definition, recognition and acceptance of those principles. Employers recognize this trend, and most of them, realizing that this is not a static age, are ready to go forward with it. Men who have to do with the adjusting of industrial controversies see that in any and every individual establishment, where the relations between employer and employee have been harmonious and mutually satisfactory for any extended period of time, there is a concrete example of the practical application of an industrial code even though its principles have never been explicitly defined. It may be nothing more than the spirit of fair dealing, but that is fundamental, and when, in practise, certain *standards* of fair dealing come to be accepted, then the beginnings of an industrial code have been attained.

Radicals—extremists—who have been identified in the public mind with labor, whether or not they are actually in and of the labor movement, have done much to obstruct and to delay the evolutionary process. By their propaganda and by their actions they have lent substance to the imaginings of easily frightened or reactionary employers, who see a menace to governmental or social institutions in every proposal emanating from labor.

As a matter of fact, the radicals and the extremists, whether of the labor group or of the employer group, do not want an industrial code, which is inherently a program of enlightened, constructive conservatism. Revolutionary agitators aim to subvert and not to develop

the existing order into conformity with democratic institutions and ideals. Reactionary employers are likewise obstructionists who base their attitude upon a policy of expediency without guiding principles. They look upon principles, and their interpretation and application, as snares and entanglements which obstruct the free play of the so-called economic law of relentless self-interest.

CHAPTER VI

HOW TO SECURE THE CODE

The Industrial Code may be established by

- (1) Agreement between capital and labor ;
- (2) Agreement between capital and labor affirmed by legislative action and enacted into law ; or
- (3) Direct legislative action.

The first method has many advocates among both employers and employees. The strongest argument advanced in its support is that industry ought to be self-governing and that workers and their employers will not work harmoniously under any rules or regulations laid down for them by outside agencies. It is pointed out also in advocacy of this method that in industries and in plants conspicuous for having avoided strikes, lockouts, and similar disturbances and interruptions, this highly to be desired result has been attained through agreements worked out between labor and the management. Specific instances of this are cited in the United States, but especial stress is laid upon the success of industrial conferences, or industrial constitutional conventions, so to speak, and of the Whitley Council Plan of organizing industries in Great Britain.

The objections to this method are more numerous than the arguments adduced in its favor. In the first place, it is pointed out, it is impossible to work out any agreement between capital and labor, as such, because (1) all employers and all employees would not obligate themselves to abide by the agreement, and (2) all employers and all employees could not in a country of such large

geographical area as the United States be represented in a conference or congress created to formulate the agreement. To leave the establishment of the agreements to single industries or individual plants, where it might be possible to secure the acquiescence of all the parties concerned and their pledge to maintain the agreement would, of course, preclude the establishment of a code general in its application and universally accepted. This would lead, too, to inequalities and to conflicting standards as between industries, as between parts of the same industry, and as between plants; and it is pointed out that where such agreements have been entered into, no matter how successful in application they may appear to be, they are in reality nothing more than more or less comprehensive systems of collective bargaining. In no instance of importance can it be said that such agreements are based upon any clearly defined set of principles. This is notably true of the Whitley Council Plan in Great Britain, which is a system of works, district and industrial councils, wholly admirable in all that it comprehends. Its weakness lies in the fact that it does not go back far enough in making its start toward industrial peace and harmony. The fundamental objection to the proposal, however, that the industrial code should be a product of the agreement of capital and labor is that it fails to take into consideration the public welfare and offers nothing to safeguard the public interest.

Advocates of the second method (agreement between capital and labor affirmed by legislative action and enacted into law), believe that their plan meets this vital objection to the first method, because the legislative body would consider the agreement in the light of the public interest before giving it the sanction and force of law.

They argue, also, that an agreement worked out by representative leaders of both elements in industry, even tho they might not be said actually to represent all employers and all employees, would be substantially fair to all industry and could be made obligatory upon all employers and employees when it was enacted into law.

Proponents of this method make much of the fact that it has had a practical demonstration in the establishment of the principles and policies of the National War Labor Board. Those principles and policies, constituting the first real code ever known in the industrial world either in this country or abroad, were worked out and agreed to by representative employers and representative labor leaders, and while they were not passed upon by the Congress of the United States and enacted into law, they were given all the force of law when they were proclaimed by the President under his broad war powers, and when in their practical application they were supported by the President and by the heads of the various governmental departments that had to do with war industries. There is considerable force to these arguments, but there are patent weaknesses in the method in support of which they are brought forward. First of all, it is extremely doubtful whether, at this time, an agreement on basic principles could be reached between any employers and employees called upon to formulate a general industrial policy and program. It was the war emergency, largely, that made possible the agreement in the War Labor Conference Board. Employers subscribed to the principles evolved because their country faced a crisis; their patriotism was appealed to. Also, they subscribed because they wanted to get war contracts at war profits and have uninterrupted production; that appealed to their pocketbooks.

Employees, in subscribing to the agreement, also responded to the appeal to patriotism, but they likewise had a selfish consideration in that it promised them war work at war wages and put a governmental guarantee back of their fundamental rights to organize, to bargain collectively, et cetera. In fact, it was the first authoritative recognition that labor had any fundamental rights.

Moreover, there is reason for the belief that both employers and employees who entered into that agreement did so with certain mental reservations, and that each side believed in and subscribed unreservedly to only such of the principles and policies as guarded its selfish interests. For example, labor was keen for the strict enforcement of that principle that "employers should not discharge workers for membership in trade-unions, nor for legitimate trade-union activities," while employers were not enthusiastic about that but were insistent upon the next following principle that "the workers, in the exercise of their right to organize, should not use coercive measures of any kind to induce persons to join their organizations or to induce employers to bargain or deal therewith."

As to the fundamental policy underlying the whole agreement, that there should be no strikes or lockouts during the war, it is to be doubted that labor in general ever did really subscribe to it, save as a concession to patriotism and as a prerequisite to securing acceptance of the right to organize, collective bargaining, living wage and other principles. Proof of this is to be found in the fact that, throughout the war period, employees generally used the strike or the threat to strike as a measure to force consideration of their wage and other demands and to gain concessions to those demands. At the same time, it is equally to be doubted if employers

acquiesced in that policy whole-heartedly, save during the period of active hostilities when production at war profits was at its maximum. Immediately upon the signing of the armistice there were indications of a distinct change of feeling on both sides.

The failure of the President's first Industrial Conference, which split over a definition of the first principle (collective bargaining) that was brought before it as an issue, may be cited as concrete evidence that employers and employees can not or will not work out and agree upon an industrial code. Furthermore, it is patent that the process of securing the code through agreement ratified by legislative action would be unduly prolonged and might in the end fail of its own inertia. Capital and labor might be tenacious of provisions in the code that the Congress would never approve; the Congress might insist upon modifications in the public interest that would never be acceptable to the parties to the agreement; either employers or employees, or both, might agree for the sake of the agreement and then renew the fight over certain principles before Congressional committees, or on the floor of the national lawmaking body. In the light of all these considerations, therefore, the second method is rejected by those who believe in the code and who hope to see it established, with the minimum loss of time and effort, in a manner that will add to rather than detract from its efficacy.

We come, then, to the third method: direct legislative action. Under this method, the task would devolve upon the Congress to define and to enact the basic principles of industrial relations into a code applicable to all industry and binding upon both elements in industry.

It is to be expected that this method will be opposed by a large element in both the employer and the employee

groups. This opposition is based upon the grounds that such legislative action is an unnecessary, unwarranted, and unjustifiable governmental interference in what is essentially a private and not a public matter. The answers made to this objection are (1) that the establishment of an industrial code is necessary as a first essential to industrial progress and development; (2) that its establishment by legislative action is warranted by the failure of capital and labor to agree upon measures of self-government and self-regulation; and (3) that its establishment by legislative action is justified by the public interest which is greater than any group interest either of capital or labor.

Recognition of the need of some affirmative measures in this direction was seen in the concurrent resolution, introduced by the United States Senate on January 22, 1920, by Senator Kenyon of Iowa, Chairman of the Senate Committee on Education and Labor. The preamble of this resolution provided:

Whereas, in the period through which we are now passing of adjustment of war-time conditions of business and industry to normal conditions, there exists no general national agency for the settlement of industrial disputes, or for the determination of a general labor policy; and

Whereas, no general agreement has as yet been worked out by representatives of employers and employees as to the fundamental principles which should obtain in the adjustment of industrial relations and conditions, or the labor standards which should be observed; and

Whereas, the general public has suffered much from this state of affairs and will suffer further loss and inconvenience if the present situation is allowed to continue; and

Whereas, unless some national machinery, based on certain well-defined principles, for the peaceable adjustment of industrial disputes is established, not only the continuity of production can not be maintained but also the acceleration of production to maximum proportions, of which our country and the world are in so grievous need, can not be hoped for.

The resolution then provided for the creation of a National Labor Board similar to the National War Labor Board, which should proceed to function under the principles and precedents established by the National War Labor Board, and for the calling by the President of the United States of a National Industrial Congress "for the purpose of establishing permanent agencies for the adjustment of industrial disputes to supersede the National Labor Board, and for the further purpose of determining a permanent series of principles, or a code, to govern future industrial relations and the adjustment of industrial disputes, and for the still further purpose of sanctioning standards of working conditions to obtain in industry." It also provided "that at the conclusion of the National Industrial Congress the President shall transmit to the Congress the recommendation of the Industrial Congress as to legislation or other permanent action which it may have deemed advisable."

The Industrial Congress contemplated in the resolution would be composed of 150 voting delegates each, representative of employers and employees, with not to exceed fifty representatives of the public who should participate in its deliberations but have no voting power.

This resolution may be cited as a tacit acceptance of the idea that any industrial code that might be established should be the product of a joint agreement between capital and labor, and as it stands it may be

so regarded. However, it was not adopted—indeed, it received little consideration as a result of the all-engrossing importance attached to action on the Peace Treaty—and it may be urged that its deeper significance lies in its recognition of the need of getting something done through Congressional initiative.

Should the Congress proceed to define and to promulgate an industrial code, both capital and labor undoubtedly would be accorded a full hearing, and their interests would be considered and subserved, but the needs and interests of the social and economic fabric as a whole would predominate.

The important thing is the code. If it can be established through the joint agreement of employers and employees in such manner as to make it universal in application and acceptance, all well and good. If it be necessary first to secure such an agreement and then give it the force of Congressional affirmation, no objections can be raised, just so that is done. If, in order to attain the desired end, Congressional initiative and action be required without waiting for a joint agreement, or in the failure to secure such an agreement, then that is the course to be pursued. Advocates of the code are not so much concerned as to *how* it may be established; they are concerned as to *how soon*. Enlightened public opinion wishes the country to be saved from the constant wastes and losses of industrial warfare.

As to whether it would be advisable or necessary to supplement the code with penal statutes there are differences of opinion. An enlightened, an aroused, and a militant public opinion would undoubtedly suffice to enforce observance of and adherence to the code. Assuredly, from the date of its promulgation its principles would be the basis of all arbitrations and adjust-

ments in industrial controversies, and it would accordingly contribute greatly to equality, uniformity and stability in industrial conditions, thus approximating if not attaining its ultimate aim. Experience both here and abroad during past years has shown the futility of penalties in connection with antistrike legislation. They not only do not prevent strikes but are practically impossible of enforcement. Where fundamental rights and principles have been sanctioned, and have been made mandatory upon agencies for the judicial settlement of industrial disputes, antistrike penalties have been unnecessary because no strikes have occurred. This has been the experience in this country also under the labor provisions of the Transportation Act of 1920. At any rate, until a greater body of experience as to the desirability and practicability of punitive measures has been developed, there can be no impairment of the interests of employers or the public, for under the common and statutory law, a series of judicial precedents have been developed during recent years which afford ample safeguards.

CHAPTER VII

THE RIGHT TO ORGANIZE

The right of both employer and employee to organize is so elementary that its affirmation as the first principle of an industrial code will be universally conceded. The only debate that could arise would be as to the phraseology of the declaration. No spokesman for labor will oppose the right of employers to associate themselves in any manner they may see fit for lawful purposes; no employer or representative of employers who speaks with any measure of authority, will place himself on record as denying the right of workers to organize.

While this principle is so universally accepted in theory, however, in practise we find that there are employers who throw every obstacle in the way of the organization of their employees, and we find that there are labor leaders who do not recognize the right of the individual worker to refrain from joining the association or associations of his fellow workers. Hence, it becomes necessary to affirm the principle specifically, and to define explicitly just what is included in or contemplated by the right to organize.

Organization of employers takes the form of partnerships, corporations, associations of employers in the same community, state, or industry, associations of employers in allied industries, and federations of associations of employers on a national basis.

Organization of workers usually takes the form of trade-unions, each embracing workers in a single craft or industry, and local, state and national federations of trade-unions, but is also found occasionally in what may

be termed shop committees, peculiar to individual plants or establishments. Some trade-unions are international in scope, while shop committees may be elaborated into a system covering an entire industry.

Relations between employers and employees, as expressed in terms of organization, take the form of (1) the closed union shop; (2) the closed non-union shop; or (3) the open shop.

Under the closed union shop, the employer enters into contractual relations with the unions, and obligates himself to employ none but union workers. In some instances, the employer deducts from the pay of the workers the amounts of their membership dues and other fees and turns the proceeds over to the duly accredited union officials. This is known as the "check-off system" and is found notably in the bituminous coal mining industry.

Under the closed non-union shop, the employer refuses to employ any worker who is a member of a trade-union. He does not necessarily deny the right of the worker to organize and to join a union, but he insists upon his own right to refuse to give employment to a union member. Occasionally such employers permit or even encourage local associations of their employees.

Under the open shop, both union and non-union workers may be employed. Frequently, the employer enters into a limited contract with the unions and almost invariably the union scale of wages and union standards as to hours and working conditions prevail in the open shop. Shop committee systems are found in both closed non-union and open shops, but they are extremely rare in the former.

Denial of the right of workers to organize is ethically so unjust, economically so unsound, and socially so

dangerous, that it is difficult to realize that trade-unions have not been sanctioned ever since the first one was proposed and formed. As a matter of fact, vindication and general acceptance of trade-unions as a natural and rational development of industrial growth and progress are comparatively modern. Less than a century ago unions were under the ban of law and treated as conspiracies. As Professor Seligman says:

It was not until 1824 that they were legitimized in England, and not until much later that the free right of association was conceded elsewhere. The recognition that is to-day almost universally accorded them rests on the economic principles that in the modern labor contract the conditions of work have become collective or group conditions, and that the bargaining to be equal must be collective or group bargaining. The individual workman is nowadays helpless against the typical employer. In a railway or a large factory, work is carried on under broad general rules. The laborer who forms one of a group of tens, of hundreds, or of thousands, of workmen cannot expect to bargain successfully as an individual. His only hope lies in association. Freedom of contract is illusory because of the self-evident inequality. The trade-union is an attempt to restore to the individual, as a member of the group, the equality which has been lost through the transition from small-scale to large-scale industry. The trade-union is as inevitable a product of modern economic life as the corporation. The one is an association of labor, the other an association of capital; both are attempts to attain individual prosperity through concerted efforts.*

In his work on wages, in speaking of labor organizations, Thorold Rogers says:

A long study of the history of labor has convinced

* Edwin R. A. Seligman, *Principles of Economics*, pp. 434-5.

me that they are not only the best friends of workmen, but the best assistance for employer and the public, and to the institutions of these associations political economists and statesmen must look for the solution of many of the most pressing and difficult problems of our times.

Another economist says:

Labor organizations are not forced products. They have grown up almost spontaneously. They have arisen naturally out of modern industrial conditions. Wherever capital is a separate factor in production, and is organized on a large scale, labor inevitably organizes sooner or later in order that it may stand on an equal footing and make labor contracts advantageously. Let us suppose that one capitalist employs a thousand men. If these men are not organized, each man treats individually with all the capital in the establishment. All the capital is represented by one man, but one wage earner represents but one one-thousandth part of the labor force, and he is not in a position of equality. The laborers therefore unite their labor, and, speaking through one representative, place all the labor against all the capital.*

No less emphatic endorsement of the principle of organization is to be found in the utterances of our leading statesmen and publicists. Theodore Roosevelt, while President of the United States in 1902, said:

I believe emphatically in organized labor. I believe in organizations of wage workers. Organization is one of the laws of our social and economic development at this time.†

William Howard Taft, before his election to the

* Richard T. Ely, *Political Economy*, pp. 238-9.

† *Addresses and Presidential Messages*, 1902-1904, pp. 54-56.

Presidency (address before Cooper's Institute, New York City, January 10, 1908) said:

What the capitalist, who is the employer of labor, must face is that the organization of labor—the labor-union—is a permanent condition in the industrial world. It has come to stay. If the employer would consult his own interest, he must admit this and act on it. Under existing conditions, the blindest course that an employer of labor can pursue is to decline to recognize labor-unions as the controlling force in the labor market and to insist upon dealing only with his particular employees. Time and again one has heard the indignant expression of a manager of some great industrial enterprise, that he did not propose to have the labor union run his business; that he would deal with his own men and not with outsiders. The time has passed in which that attitude can be assumed with any hope of successfully maintaining it.

While he was Chief Executive of the United States, Mr. Taft in an address at Worcester, Mass., April 3, 1910, affirmed his belief in labor organizations, and on May 26, 1915, in addressing the National Association of Manufacturers in New York City he said:

I fully approve the principle of labor-unions. I believe that they are essential in creating a state of equality between employees and employers.

During the war emergency, Mr. Taft served as joint-chairman of the National War Labor Board, and it is interesting to note that, after his experience in that work, he said on August 9, 1919:

Labor unions have been necessary to secure to the individual working man an opportunity to deal with his employer on an equality and free from the duress of immediate want of a daily wage, to demand what he

regards as an adequate and just return for his labor, or to withdraw from employment.

Charles Evans Hughes, former associate justice of the Supreme Court of the United States, former candidate for the Presidency and now Secretary of State, in an address at Columbia University on November 30, 1918, said:

I trust there will be no more struggles in futile opposition to the right of collective bargaining on the part of employees. The recognition of the right of representation and the prompt hearing of grievances provide the open door to reasonable and just settlements. And, in returning to peace conditions, there should be the utmost care to preserve every possible means which has been found helpful during the war for the investigation of the complaints of labor and for the adjustment of demands.

The present Chief Executive of the United States, Warren G. Harding, affirms the right of labor to organize, and he does this in language as unqualified and as unmistakable as that used by any of his predecessors. Indeed, he disposes of the subject with a declaration that may be regarded as indicating that he does not consider the question debatable.

"The right of labor to organize," says President Harding in his message of December 6, 1921, "is just as fundamental and necessary as is the right of capital to organize."

Among social scientists there may be quoted Henry White, who says:

I do not intend to make a lawyer's plea for the union, to emphasize its good points and hide its weaknesses. The labor movement possesses such elements of strength that its deficiencies can be candidly admitted

in order that they may be more readily corrected. To seek to destroy unions because of their defects would be like attempting to abolish government because of its abuses. The unions, with all their faults, represent a forward stride to the human race. They cultivate a spirit of self-reliance and mutual assistance which ought to more than compensate for their faults.*

Again, William F. Willoughby, in discussing "Employers' Associations for Dealing with Labor in the United States," says:

In conclusion, several possible far-reaching consequences of the movement for the organization of both classes of industrial workers (national associations of employers signing agreements with national unions of employees) should at least be mentioned. In the first place, it should be noted that one fundamental outcome of the movement is the great advance which it represents toward status, or fixity, of conditions. The character of industrial organizations and the conditions under which the different factors of production will give their cooperation in the production of wealth are being determined and enforced in a general or comprehensive manner, in much the same way as if the State itself had intervened and by the exercise of legislative authority had declared the conditions that should prevail. The method is radically different, but the final result is much the same. More and more the individual employer and employee is losing the power to determine for himself the conditions under which his work will be performed. The manufacturer or artisan in entering a strongly organized industry finds many of the most important conditions of work already almost as definitely determined as if they had been fixed by law. There is no better illustration of the fact that legislatures are by no means the only bodies who

* Henry White, *Union and the Open Shop*, 1903.

are framing the provisions that shall govern the conditions under which the modern complicated mechanism of industrial society must be operated. Organizations and methods are being evolved with the purpose of devising and enforcing rules for industrial work. It is thus not a question whether they shall be prescribed by the State or not at all, but whether they shall be made by the State or some other organization.*

O. M. W. Sprague, in an article on the relations between labor and capital in reconstruction, says:

One of the most efficient industries in the world, especially on the labor side, is the Lancashire cotton industry. It is strongly and completely organized. Trade-union officials representing the operatives treat on equal footing with representatives of the employers regarding wages, hours, and all other matters of mutual concern. Significantly enough, this is the only great English industry which looks forward with confidence to the years immediately following the war.†

Far-sighted employers concede the right of the worker to organize whenever and wherever they discuss the subject. Thus, we find John D. Rockefeller, Jr., saying:

As regards the organization of labor, it is just as proper and advantageous for labor to associate itself into organized groups for the advancement of its legitimate interests as for capital to combine for the same objects.‡

Charles M. Schwab, head of the great Bethlehem Steel Company, says:

I believe that labor should organize in individual

* Quarterly Journal of Economics, November, 1905, pp. 147-150.

† The American Economic Review, December, 1918, p. 769.

‡ The Annals of the American Academy, January, 1919, p. 171.

plants or amongst themselves for the better negotiation of labor and the protection of their own rights,* but he qualifies that by adding:

But the organization and control of labor in individual plants and manufactories, to my mind, ought to be made representative of the people in those plants who know the conditions.

In this, Mr. Schwab takes much the same position as Mr. Gary of the United States Steel Corporation.

A. A. Landon, of the American Radiator Company, offered a resolution in the President's First Industrial Conference, October 9, 1919, which provided "that it is the opinion of the Conference that the employers and employees in every factory should unite in bringing about the development of committees freely elected by the employees (whether as a part of the trade-union system or otherwise but not in antagonism to trade-unionism) for the joint consideration by these committees and the employers of such constructive matters as methods of enlisting workers' interest, and of improving efficiency of production, which are of mutual value to employers and employees."

J. N. Tittmore, a member of the employers' group in the same conference, said:

So far as I am concerned, I am committed in my mind and in my very soul to unionism as it is expressed by the administrative faculty of the American Federation of Labor; and in saying that, my friends, I do not sanction ultraradicalism.

Harry A. Wheeler, another member of the employers' group, said:

We freely accord the place of the trade- and labor-

* The Annals of the American Academy, January, 1919, p. 158.

unions in those organizations which the men have a right to join.

The Chamber of Commerce of the United States in its referendum No. 27 on a report on principles of industrial relations declared:

4. The right of workers to organize is as clearly recognized as that of any other element or part of the community.

5. Industrial harmony and prosperity will be most effectually promoted by adequate representation of the parties in interest. Existing forms of representation should be carefully studied and availed of in so far as they may be found to have merit and are adaptable to the peculiar conditions in the various industries.

From the report of the Bureau of State Research, Section 2, Vol. vi, New Jersey State Chamber of Commerce, the following conclusions as applicable to present conditions of unrest are quoted:

1. Shop committees operated as a substitute for unionism tend to increase industrial unrest.

2. Shop committees which are planned to be neutral on the union question are beneficial especially in the industries where labor is little or not at all organized, but they are unstable in that eventually they become either anti- or pro-union.

3. Shop committees combined with unionism present an effective instrument for the protection of the interests of all parties participating in industrial production as well as the public.

In England we find, according to the report of the United States Employers' Industrial Commission on British Labor Conditions:

Most employers freely recognize the right of labor to organize; they regard organization as greatly con-

tributing to the stability of industry. Some large manufacturers declare that they wish to see every workman within the unions, so that they must all come under organization control.*

We also find all but three or four of the leading industries of England organized on the Whitley Council Plan, which is based essentially on union recognition, and we have the report of the Provisional Joint Committee of the English Industrial Conference, London, April 4, 1919, which says:

The basis of negotiation, between employers and work-people, should be full and frank acceptance of employers' organizations and trade-unions as the recognized organizations to speak and act on behalf of their members.

France, Belgium, Denmark, Norway, Sweden, Germany, Australia, and New Zealand have given definite legal recognition to the principle of organization, and in Canada we have a declaration by the Government, by Order-in-Council of July, 1918, one clause of which is as follows:

All employees have a right to organize in trade-unions, and this right shall not be denied or interfered with in any manner whatsoever, and through their chosen representatives they should be permitted and encouraged to negotiate with employers concerning working conditions, rates of pay and other grievances.

The Canadian Royal Commission on Industrial Relations in its report of September, 1919, also said:

57. On the whole, we believe the day has passed when any employer should deny his employees the right to organize. Employers claim that right for themselves

* Bulletin, U. S. Department of Labor, Washington, 1919.

and it is not denied by the workers. There seems to be no reason why the employer should deny like rights to those who are employed by him.

58. We believe the frank acknowledgment of this right by employers will remove one of the most serious causes of unrest. The employers gain nothing by their opposition because, notwithstanding much opposition, their employees do organize, and the refusal but creates in their minds a rankling sense of injustice.

59. Not only should employees be accorded the right of organizing, but the prudent employer will recognize such organization and will deal with the duly accredited representatives thereof in all matters relating to the interests of the employees, when it is sufficiently established to be representative of them all.

The labor provisions of the Peace Treaty included the affirmation of

Second. The right of association for all lawful purposes by the employed, as well as by the employer.

In the United States, twenty-six States have enacted laws specifically legalizing trade-unions and like organizations. They are: Colorado, Connecticut, Illinois, Iowa, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, Texas, Utah, Virginia, Washington, Wisconsin, and Wyoming.

In the way of governmental recognition of the right to organize there may be cited, also, an order (Bulletin No. 27, Order No. 3209) issued by the Postmaster-General on June 14, 1919, which averted the threatened strike of electrical and telephone workers. This order provided:

Such employees shall have the right to organize or to

affiliate with organizations that seem to them best calculated to serve their interest, and no employee shall be discharged, demoted, or otherwise discriminated against because of membership in any such organization as prescribed in Bulletin No. 9, issued by me, dated October 2, 1918. In case of dismissal, demotion, or undesirable transfer of employee where no real cause is shown by the company for said dismissal, demotion, or undesirable transfer it shall be considered that discrimination was practised, and upon such finding the employee shall be reinstated to former position with full pay for time lost or shall be reimbursed for any loss sustained by reason of demotion or transfer.

However, it is in the principles and policies of the National War Labor Board that we find the right to organize enunciated in detail in form distinctively suitable for inclusion in an industrial code. This declaration, worked out in conference between representatives of employers and employees, and given the force of law for the war emergency by the presidential proclamation, was as follows:

The right of workers to organize in trade-unions, and to bargain collectively through chosen representatives is recognized and affirmed. This right shall not be denied, abridged, or interfered with by the employers in any manner whatsoever.

The right of employers to organize in associations or groups, and to bargain collectively through chosen representatives, is recognized and affirmed. This right shall not be denied, abridged, or interfered with by the workers in any manner whatsoever.

Employers shall not discharge workers for membership in trade-unions, nor for legitimate trade-union activities.

The workers, in the exercise of their right to organ-

ize, should not use coercive measures of any kind to induce persons to join their organizations nor to induce employers to bargain or deal therewith.

In establishments where the union shop exists the same shall continue, and the union standards as to wages, hours of labor, and other conditions of employment shall be maintained.

In establishments where union and non-union men and women now work together and the employer meets only with employees or representatives engaged in said establishments, the continuance of such conditions shall not be deemed a grievance. This declaration, however, is not intended in any manner to deny the right or discourage the practise of the formation of labor-unions or the joining of the same by the workers in said establishments, as guaranteed in the preceding section, nor to prevent the War Labor Board from urging or any umpire from granting, under the machinery herein provided, improvement of their situation in the matter of wages, hours of labor, or other conditions as shall be found desirable from time to time.

In the application of this principle, the National War Labor Board had occasion to restate the broad general rule as to the right to organize in several cases, but in far the greater number of cases the practise of discrimination was involved: the discharge of workers for legitimate trade-union activities. Invariably, when the complainants proved their case, the Board ordered the reinstatement of the discharged employees with compensation for all they had lost in wages, seniority rights, et cetera, by reason of their discharge.

One of the earliest cases handled by the Board involved this principle, and established a precedent as to the extent to which the powers of the government could be invoked in backing up the decisions and awards

of the Board. The Western Union Telegraph Company made it a practise, if not a rule, to discharge employees who joined the telegraphers' union. Upon complaint of the union in behalf of employees so discriminated against, the Board ordered the company to cease the practise and to reinstate the discharged workers. The company denied the authority of the Board in the matter and declined to obey its order, whereupon the Board laid the case before President Wilson, who directed the Postmaster-General to take over and operate the business of the telegraph companies for the government for the period of the war.

In connection with this case it should be noted that the defendant company permitted its employees to join an association composed solely of its own employees. Thus, it did not deny the right of the workers to organize, but insisted upon exercising the prerogative of dictating the kind of organization they might form or join. The company did not want its employees in any organization that had any outside affiliations, and took the position that they could exercise their right to organize only by joining the association, which is a kind of organization known to trade-unionists as a "company union." No one thing is more objectionable to trade-unionists than a "company union," which they hold to be a device created and controlled by the employer for the primary purpose of preventing the unionization of his employees.

The National War Labor Board did not pass upon the "company union" question in the Western Union Case, but it arose in other cases and the Board held that (1) the countenancing of a "company union" by an employer was not a sufficient recognition of the workers' right to organize; (2) the employer could not compel

its employees to join a beneficial organization conducted by the company; and (3) the employees must be permitted to become members of any legitimate labor organization without interference on the part of the employer. As the Board said in the case of the New York Consolidated Railroad:

The right of the workers of this company freely to organize in trade-unions, or to join the same, and to bargain collectively, is affirmed, and discharges for legitimate trade-union activities, interrogation of workers by officials as to their union affiliations, espionage by agents or representatives of the company, visits by officials of the company to the neighborhood of the meeting place of the organization for the purpose of observing the men who belong to such unions, to their detriment as employees of the company, and like actions, the intent of which is to discourage and prevent men from exercising this right of organization, must be deemed an interference with their rights as laid down in the principles of the Board.

In efforts to conceal discriminatory practises it was shown in this case that the employers had caused their records to show that the employees were discharged for "incompetency," when in reality the cause was membership in a trade-union or trade-union activity. When this was called to the attention of the Board, it laid down the broad rule that the fact that a worker had been employed by a company must be accepted as proof of his general competency, and that, accordingly, a statement of specific incompetency must be given a dismissed employee upon demand by himself or by his representative.

In other decisions and awards, the Board held that peaceful participation in a strike should not be a bar to

reemployment; referred to the War Department, evidence that employers had misused the selective draft law in an effort to punish union men; held that employees, upon giving proper notice, must be permitted to absent themselves without pay to attend union conventions; forbade the blacklisting of union men, and ruled that in ordinary circumstances an employer cannot object to the wearing of a union button by an employee even while he is on duty, unless the wearing of the button actually causes a lack of cooperation between the union and non-union employees, in which event the employer may forbid the use of such a symbol during working hours.

The Board was called upon to pass upon the individual contract question in several instances, and it held that the employer should not make with, or require of their employees, individual contracts which deterred the employees from joining unions. It was in one of these cases that further evidence was afforded as to the extent to which the government would go in enforcing the Board's decrees. It was shown that the Smith & Wesson Company required, as a prerequisite to employment, that the worker sign an agreement not to join a trade-union while he remained in the company's service and to give due notice of his intention so to do should he at any time decide to identify himself with a union. The Board held that this contract was a violation of the rights of the workers, and ordered the reinstatement of men who had been discharged for failure to keep the individual contract agreement. The company declined to comply with this ruling, whereupon the Secretary of War, at the direction of the President, took over the plant of the company and operated it until it was decided that the war emergency was over.

In none of the cases brought before the National War Labor Board, under the general principle of the right of organization, did it appear that employees had denied or in any manner sought to restrict the right of employers to organize. This may be pointed to as concrete evidence in substantiation of the general statement made earlier in this chapter to the effect that workers do not deny or attempt to interfere with the exercise of this right by employers. Therefore, it appears that the inclusion of this principle in an industrial code is necessary primarily to safeguard the rights of the workers, and the phraseology of the declaration should be worked out with that end in view.

The following is suggested, accordingly, as a tentative draft of the proposed principle, indicated both in scope and language by experience:

The right of employers and of employees to organize is recognized and affirmed. This right shall not be denied, abridged, or interfered with in any manner whatsoever, nor shall coercive measures of any kind be used by employers or employees, or by their agents or representatives, to compel or to induce employers or employees to exercise or to refrain from exercising this right.

CHAPTER VIII

COLLECTIVE BARGAINING

Collective bargaining dates back to the day when two men, working for the same employer, decided that they were not getting a sufficient wage and agreed to ask for an increase. The instinct for collective action was manifested when they discussed the matter on the basis of their mutual interest, and realized that in all probability they would fare better in dealing with their employer if they united in the presentation of their demand or request. The employer might deny to them individually what he could not or would not deny to the two of them; he could make terms more to his selfish interest if he dealt with them singly than if he were confronted with the necessity of dealing with them together, and, conversely, if they went to him together they could prevent his trading one against the other and could give to their claims for more wages the strength of one multiplied by two. Their next step was to consider the manner of presenting their claims, and by the natural processes of selection the one who was the better speaker, or who had the more courage and initiative, was chosen to speak for them both. Thus, collective bargaining was born. From this primitive beginning it grew, as industry developed, into the huge, complicated structure of the present day, until we find that where one man once bargained with an individual employer for another and himself, now one man, or a committee, may bargain with a committee of or representative of employers and adjust wage rates, working hours and other con-

ditions of labor for hundreds of thousands of workers in an entire industry.

This growth of the system of collective dealing and bargaining appears upon close scrutiny and study to have been natural, logical, and inevitable; as much so as any other evolutionary process having to do with humankind and human relations. It is as old as—indeed, is a part of—the instinct of self-preservation which is commonly accepted as the first law of nature, and is inherent in the very fact that man is a gregarious animal and combines with his kind in the struggle for existence and in the pursuit of all social aspirations. It may be said, therefore, to be one of the fundamental bases of human relations, and it is but natural that, out of the *practise* of this method of dealing between the component elements of industry, there should have developed a corresponding *right* to use that method.

It is a right that inheres in the employer no less than in the employee, and upon examination it will be found that the exercise of this right by the employer dates back to the time when the employer used in his business capital in addition to that which he himself owned, and he thus became the agent of more than one group or elements of capital in dealing with his workers; or, to that day when the first employer was confronted with a collective demand from his employees and he joined with other employers in agreeing to the demand, in resisting it, or in effecting a compromise of it.

However, in the assertion and in the exercise of this right the worker has always been at a disadvantage as compared with the employer. Constantly he has been forced by economic necessity to accept the terms of employment prescribed by the employer, to waive his rights, or to suffer their denial. Employers themselves

are not immune to the pressure of economic necessity. Their products must be produced at a profit, and they must be produced at a cost that will permit of their sale at a profit in competition with the wares of other producers. The employer was as quick to realize that it was to his advantage to deal with his workers as individuals, as the workers were to realize that collective bargaining would best serve their interests, and he was naturally inclined to press this advantage. The struggle was the more unequal because capital is more cohesive than labor, because the employer's existence from day to day is not dependent upon his securing the labor of any one worker or group of workers, while the worker must have the daily job in order to provide the daily bread for himself and those dependent upon him; and because, as a rule, the employer has more intelligence and a higher order of acumen in driving bargains. Then, too, until a comparatively recent time, property rights were placed before and above human rights and civilized society was organized on a purely capitalistic basis.

The labor movement, therefore, from its beginning, has been directly or indirectly a constant struggle to establish the right of collective bargaining. Gradually, as production took on large scale proportions and as constantly larger aggregations of capital and larger numbers of workers were brought together in single plants or establishments, there developed a necessity for collective dealing that employers recognized and conceded. With hundreds, thousands, and even tens of thousands of workers in one unit of industry, personal contact between the employer and the individual worker became impossible, and group relations were established inevitably.

So, to-day, while the practise of collective bargaining does not prevail universally, the right is almost univer-

sally conceded, and the present controversy and struggle is one over a definition of collective bargaining: the method by which it shall be carried on.

In this struggle, the position of labor is clear and unmistakable and there are no differences or gradations of opinion among the workers. Labor concedes and does not seek to limit or to restrict in any manner the right of employers to bargain collectively. Labor demands the right of the workers to bargain collectively through representatives of their own choosing, without any limitations or restrictions.

On the other hand, the position of capital is not so clearly defined, nor is there such unanimity of thought and purpose. Capital is of one mind only as to its own right to bargain collectively; as to the right of the workers there are wide divergences of opinion and of practise among employers.

There are employers, perhaps comparatively few in number, who deny that the worker has any right of collective bargaining, and who refuse to deal collectively with their employees. They arrogate to capital complete control of industry and sole determination of all the multifold conditions of labor. They insist that the employment of labor is strictly a matter of individual contract, the terms of which are fixed by the employer and accepted by the employee when he goes to work, and that changes in the terms of this contract can be negotiated only by the individual worker for himself alone.

There are other employers who concede the right of collective bargaining as demanded by the workers without any reservations whatsoever. Closely identified with this group is another which concedes the right, but insists that this must not be construed as limiting the

right of any worker to deal directly with his employer if he so chooses. The difference between these groups is so slight that they may be considered as one.

The third group, and unquestionably it is predominant in American industry at the present time, concedes to the worker the right of collective bargaining, but reserves to the employer the right to deal or to refuse to deal with representatives of his employees who are not themselves included among his employees. The effect of this reservation is to restrict or to prevent collective bargaining through trade-unions. Most of the employers who belong in the first group—those who deny the right of collective bargaining to the workers—conceal their real views and practises by assenting to the position taken by this third group. The contest is thus between all labor, supported by a numerically small but influentially large group of employers, on the one side, with a large majority of the employers on the other.

This issue was drawn sharply in the first Industrial Conference called by President Wilson in October, 1919. This conference, it should be understood, was divided into three groups,* one representing the public, one employers, and one labor, and under the rules adopted each group voted as a unit and the unanimous vote of all three groups was required for any affirmative action or declaration. The question of collective bargaining was precipitated, early in the proceedings, by the introduction by the labor group of a resolution providing for the arbitration of the then existing steel strike, which raised by implication the issue of trade-unionism.

The general resolution on collective bargaining was as follows:

* See Appendix.

The right of the wage earners in trade- and labor-unions to bargain collectively, to be represented by representatives of their own choosing in negotiations and adjustments with employers with respect to wages, hours of labor, and relations and conditions of employment, is recognized.

This must not be understood as limiting the right of any wage earner to refrain from joining any organization or to deal directly with his employer if he so chooses.

The principal debate on the question was carried on by the public group, John D. Rockefeller, Jr. making the first statement in support of the resolution. He pointed out that the resolution was predicated upon the principle of representation in industry, which includes the right to organize and the right to bargain collectively. The principle of representation, he argued, is one which is fundamentally just and vital to the successful conduct of industry, and with its application in political life consistency demands its corresponding application in industry. Other members of the public group pointed out that the adoption of the resolution would give an impetus to the conservative trade-union movement, and cited numerous instances of successful collective bargaining and its widespread application, particularly in the railroad industry.

The chief argument advanced by the labor group was in reply to the contention of the employers in favor of shop councils or shop committees as a form of collective bargaining, and was to the effect that such form of organization did not leave untrammelled the right of the workers to choose their own representatives and that the demand for it on the part of the employers was tantamount to a demand that they be given the right to a

voice or control in the selection of the employees' representatives.

Members of the employers' group contended that the resolution was ambiguous and susceptible of inconsistent interpretations. They declared their willingness to recognize the principle of establishment or plant collective bargaining, and argued that all differences should be settled in the shop, without participation by men from outside the shop. "Outside labor-union men can not be disinterested," they said. "They must necessarily be influenced by loyalty to their union; they desire to promote its aspirations and to see it prosper." The employers further argued that the resolution excluded by its silence the right of workers to join shop councils or associations in individual establishments, and that it recognized the right of employees of the government to join labor-unions, which might order them to strike or otherwise control their action as against the government. A substitute resolution offered by the employers was as follows:

Resolved, That, without in any way limiting the right of a wage-earner to refrain from joining any association or to deal directly with his employer as he chooses, the right of wage-earners in private as distinguished from government employment to organize in trade- and labor-unions, in shop industrial councils, or other lawful form of association, to bargain collectively, to be represented by representatives of their own choosing in negotiations and adjustments with employers in respect to wages, hours of labor, and other conditions of employment, is recognized; and the right of the employer to deal or not to deal with men or groups of men who are not his employees and chosen by and from among them, is recognized; and no denial is intended of the right of an employer and his workers volun-

tarily to agree upon the form of their representative relations.

A substitute offered to the original resolution by the public group made it read, "The right of the wage-earners in trade- and labor-unions *and other organizations* to bargain collectively," etc., but the original and both substitute resolutions failed of adoption.

A new collective bargaining resolution was then offered by the labor group and a vote called for on it in open session of the conference without reference to committee. This resolution was as follows:

The right of wage-earners to organize without discrimination, to bargain collectively, to be represented by representatives of their own choosing in negotiations and adjustments with the employers in respect to wages, hours of labor, and relations and conditions of employment, is recognized.

The discussion, therefore, having been essentially a matter of definition as to the form of collective bargaining—whether through the regularly organized trade-unions or through the system of shop committees—a specific question was directed by a number of the public group to the labor group, asking if the new resolution still left open for discussion by the conference the question of the method and the manner of collective bargaining. A reply in the affirmative was given by the labor group. However, the employers' group insisted that no matter what the wording of the resolution might be there was still danger of misinterpretation of its meaning by the regularly constituted trade-union movement, and that to the trade-unionist the very phrase, collective bargaining, meant one and only one thing—namely, bargaining with the spokesmen of the organized labor movement.

Altho the labor group and a majority of the members of the public group voted for the new resolution, it was defeated by the vote of the employers' group. Thereupon the labor group withdrew from the conference.

It now becomes pertinent to review the expressions of what may be regarded as the enlightened opinion of the world as to the right of collective bargaining. President Harding, in his message to the Congress of December 6, 1921, may be said to have epitomized the best of modern thought on this subject when he declared:

The right of labor to negotiate, to deal with and solve its particular problem in an organized way, through its chosen agents, is just as essential as is the right of capital to organize, to maintain corporations, to limit the liability of stockholders.

Former President Woodrow Wilson has said:

Governments must recognize the right of men collectively to bargain for humane objects that have at their base the mutual protection and welfare of those engaged in all industries. Labor must not be longer treated as a commodity. It must be regarded as the activity of human beings, possessed of deep yearnings and desires. The business man gives his best thought to the repair and replenishment of his machinery, so that its usefulness will not be impaired and its power to produce may always be at its height and kept in full vigor and motion. No less regard ought to be paid to the human machine, which, after all, propels the machinery of the world and is the great dynamic force that lies back of all industry and progress. Return to the old standards of wage and industry in employment is unthinkable.*

* Message of the President to the Congress; U. S. Congressional Record, December 2, 1919; p. 32.

Former President Taft has said that "collective bargaining with all its reasonable corollaries should be freely granted," and former Associate Justice Hughes, as already noted, has made his views unmistakable in the declaration, "I trust there will be no more struggles in futile opposition to the right of collective bargaining on the part of employees."

Herbert Hoover, whose position in public life is so well known that he needs no identification, in discussing the great service that trade-unions have rendered American workers and the American public, said: "These gains have been made through hard collective bargains, and part of the difficulties of the labor situation today is the bitterness with which these gains were accomplished." On another occasion Mr. Hoover said:

I am deeply impressed with the fact that there is but one way out, and that is again to establish through organized representation that personal cooperation between employer and employee in production that was a binding force when our industries were smaller of unit and of less specialization. Through this, the sense of craftsmanship and the interest in production can be recreated and the proper establishment of conditions of labor and its participation in a more skilled administration can be worked out. *The attitude of refusal to participate in collective bargaining with representatives of the employees' own choosing is the negation of this bridge to better relationship.** (The italics are the authors'.)

Economists' view of collective bargaining, and more particularly of that phase of the question which disrupted the first National Industrial Conference, may be illustrated by a quotation from Professor Taussig:

*Address at his inauguration as President of the American Institute of Mining Engineers, New York City, February 17, 1920.

A common contention among employers opposed to unionism is that they will deal only with their own men, not with any outsider. In this respect they seem to be quite in the wrong; or, to state it more carefully, the balance of social advantage is against such a procedure. The workmen clearly gain by having their case in charge of chosen representatives, whether or no these be fellow employees; and collective bargaining and unionism up to this point surely bring no offsetting disadvantages to society. As to the immediate employees, there is often a real danger that he who presents a demand or a grievance will be "victimized." He will be discharged and perhaps blacklisted; very likely on some pretext, but in fact because he has "made trouble." Further, the ability to state and argue the workman's case and to negotiate with success is possessed by few.*

Commons and Andrews point out that "in real collective bargaining also lies the protection of the public. It means fair conditions for labor and yet conditions under which industry can operate. It is the assurance of a minimum of industrial disturbance. Restrictions in the law upon collective action upon the other side are inconsistent with collective bargaining."†

Carl Mote summarizes the benefits of collective bargaining when he says:

In behalf of collective bargaining, it may be urged that three million American workmen, more or less, by virtue of their organization for that purpose, have been able to maintain a wage scale far above that of the unorganized trades; that the evils of child and women labor have been effectually checked or eradicated; that hygienic, sanitary, and safety laws have been

* Principles of Economics, Vol. 2, p. 265.

† Principles of Labor Legislation, 1916, pp. 119-120.

wrung, one by one, from unwilling legislative bodies; that the standard of intelligence and of enlightened citizenship within the organized trades has risen year by year; that the membership, being trained to service in groups, has learned the lesson of obedience, discipline, and team work; and, finally, that the unorganized trades, the 85 per cent of American workmen, have benefited either directly or indirectly by what we call the "tyranny of the minority." So far as the influence of collective bargaining is concerned as a factor for enlightened citizenship, for obtaining comfortable wages and sufficient leisure for recreation, it stands paramount in the field of industry.*

The National Industrial Conference of Christian Representatives, called by the Inter-Church World Movement of North America in 1919, affirmed "the right of workers to organize themselves for the development of just and democratic methods of collective bargaining between organizations of employers and workers;" the Pronouncement of the National Catholic War Council, 1919, included the statement, "it is to be hoped that this right [collective bargaining] will never again be called into question by any considerable number of employers," while from the Board of Bishops of the Methodist Episcopal Church we have this declaration, "we favor collective bargaining as an instrument for the attainment of industrial justice and for training in democratic procedure."

Official and governmental recognition of the principle of collective bargaining dates back to 1903, when the Commission that arbitrated the great anthracite coal strike of that year included in its award the following statement: "Were it within the scope of this jurisdic-

*Annals of the American Academy of Political and Social Science, January, 1917; p. 218.

tion, the said fourth demand of the statement of claim, for collective bargaining and a trade agreement, might then be reasonably granted." However, it was not until the United States had been drawn into the World War that the first governmental action sanctioning this principle was taken. This, as in the case of the right to organize, came in the declaration of principles and policies of the National War Labor Board.

In all cases where the question was raised the Board ruled that the workers have the right to organize for collective bargaining through their chosen representatives, and that it is the duty of the employers to recognize and deal with such committees after they have been constituted by the employees. In a number of instances, the Board decided that instead of passing upon the issues in controversy it would provide for the creation of collective bargaining machinery and leave the adjustment of the issues to such agencies, with appeal to the Board in event the parties were unable to reach an agreement, and in two notable cases the Board recommended the establishment of such machinery for entire industries (fisheries and silk).

Where the employer and the workers could not agree as to the method of establishing shop committees, the Board laid down the rules. These rules varied with conditions in the establishments involved, but on October 4, 1918, the joint chairmen of the Board approved a general plan of procedure. This plan provided for the election of one committeeman for each 100 employees in each department or section of the plant; for the nomination of candidates by a method in which all the workers might have a voice; for the holding of the elections in the shop or in some convenient public building, the election to be under the supervision of the Board's

examiner in charge of the case, who should select as assistants two or more employees of the department or section for which the election was to be held, and who should be further assisted by an employee, selected by the employer, who was qualified to identify the voters as bona fide employees of the company. The plan stipulated that such elections should be by secret ballot, and that the foremen and officials of the company should absent themselves from the election.

The subject matters with which these committees were called upon to deal under the decisions and awards of the War Labor Board varied widely. They included wage scales, working conditions, hours and overtime, classification, the employment of men on work outside their trade, discharges without sufficient cause, discrimination, provisions for the health, comfort and working efficiency of the employees, sanitary conditions, holidays, weekly work periods, piecework rates, payment for special services, payment of less than established minimum rates to persons physically incapacitated or to beginners, and the establishment of apprentice systems.

As a general rule, the Board held that an employer should not be required to deal with a representative of the employees, who was not himself an employee, unless the employer had been so dealing before the submission of the controversy to the Board. This was in accordance with the principle that prewar conditions should not be changed. However, in the Omaha street railway case, the joint chairmen of the Board as arbitrators declared that while "the rules of the Board permit an employer to insist that in the negotiations between him and his employees he may deal only with his employees, and only with representatives of his employees who are his employees" they do "not prevent his employees,"

through the agency of any union to which they may belong, adopting any method prescribed by the union for the selection of a committee of the employees to represent the union men in his employ. The words 'recognition of the union' have had an artificial and improper meaning given to them by employers. They have been too technical in their treatment of the committees of their employees who have come to them to represent their union employees when they have said to such a committee 'Do you represent the union?' and 'If you do we decline to deal with you.' The question is not whether they represent the union. The question is whether they, being employees, represent other employees, and if that is the fact their mere refusal to say that they do not represent the union, or their admission that they do, does not imply a contract dealing with the union or any organization in the sense in which the War Labor Board understands the term."

Further governmental sanction of collective bargaining is found in the report of the President's Mediation Commission in 1918:

Some form of collective relationship between management and men is indispensable. The recognition of this principle by the government should form an accepted part of the labor policy of the nation.

It is also found in the order of the Postmaster General of June 14, 1919, with respect to the strike of telephone workers:

Employees of telephone companies shall have the right to bargain as individuals or collectively through committees or their representatives chosen by them to act for them.

And, finally, we find that the principle of collective

bargaining was practised by the government throughout the period of government control and operation of the railroads. With respect thereto the Director General of Railroads said in his final report of March 1, 1920:

The principle of collective bargaining was frankly recognized in the creation of these boards because they were created by agreement between the representatives of the railroad labor organizations on the one hand and the regional directors of the United States Railroad Administration on the other hand. The work of these boards of adjustment has been eminently satisfactory.

The principle of collective bargaining has been further recognized in the making of national agreements between the Director General and certain organizations of railroad employees, such agreements to remain operative during Federal control, subject to modification as provided in the agreements.

The right of collective bargaining means the right of employees, when they so desire, to deal collectively with their employers. Conversely, it means, of course, a limitation upon the freedom of the employers to discharge employees for membership in a union or to make non-union membership in a union a condition of employment.

It may be argued that such a procedure would violate certain fundamental rights of the employers; that the employer, in other words, has an inviolable right to discharge an employee for any reason he may see fit, or even for no reason. In support of this attitude, the most frequent citation is the *Hitchman* case (*Hitchman Coal Co. v. John Mitchell et al.* 24 U. S., p. 250, Dec. 10, 1917).

Such an attitude, however, seems entirely without any sound basis of reason. The power of the employer to

discharge at will is not supported by any statutory law, and even if it were, a contrary enactment by the Congress would supersede earlier statutes. Therefore, any legal support for such a power must be sought in the constitutional provisions (5th and 14th amendments) regarding personal and property rights. But these guaranties are not unlimited and unrestricted. (Their exercise is subordinated to the paramount claims of the public welfare.) This has been established by a long line of judicial decisions. Even the decision in the Hitchman case is perfectly clear upon this point. The court there stated as follows:

This court repeatedly has held that the employer is as free to make non-membership in a union a condition of employment as the working man is free to join the union, and that this is a part of the constitutional rights of personal liberty and private property, not to be taken away even by legislation, *unless through some proper exercise of the paramount police power. . . . In the present case, needless to say, there is no act of legislation to which defendants may resort for justification.* (Hitchman Coal Co. v. John Mitchell et al. 244 U. S., Dec. 10, 1917.)

The court held, in other words, that the employer had a constitutional right to make non-membership in a union a condition of employment, but that this right might be modified by a "proper exercise of the paramount police power." At that time there had been no "act of legislation" by the Congress restricting the right of discharge. If there had been such legislation, as is here proposed, it is clear that the court would have had to consider whether such legislation was a "proper exercise" of the power of the Congress, and, if it found in the affirmative, would have rendered an opinion necessarily quite different from the one actually rendered.

The real point at issue, therefore, is not whether the employer *now* has a legal right to discharge at will and refuse in any way to deal with his employees collectively. Even if this interpretation is now accepted by the courts, the real question remains; namely, whether this right may not be restricted by a positive Act of Congress. In view of the facts cited above, there is abundant reason to believe that such an act would be entirely constitutional and would be so sustained by the Supreme Court as a valid exercise of the police power.

The sole question, indeed, would be whether the public welfare requires that the privilege of collective bargaining be conceded to the workers as a legal right. The arguments in favor of such an attitude seem overwhelming. In the first place, the weight of present-day opinion is that the workers should be free to organize and deal collectively with their employers, just as the employers may organize and deal with their employees through any representatives they select. In modern large scale industry, the individual worker is at a hopeless disadvantage in dealing with his employer, especially when that employer is a huge corporation. It is only fair and just that every effort should be made to encourage an equality of bargaining power. In the second place, it is evident that the denial of the right of collective bargaining is the cause of endless discord, gross injustice and injury to the public peace and happiness.

No intelligent man will hold that the present organizations of labor are perfect, or are always conducted in the interest of the public. For their abuses, remedies must be found. On the other hand, no intelligent and just man will desire to use the imperfections of the present organizations as an argument against granting

workers the right of collective bargaining. This is a right to which they are entitled as men and as partners in our vast industrial enterprises. Furthermore, the granting of this right to the workers is in the interest of sound public policy. A large industry, such as the coal industry, is vested with a public interest hardly second in importance to railroad transportation. The public therefore can not be indifferent to the relations between employer and employee in that industry when conditions arise which threaten or interrupt the supply of one of the commodities most essential to life and industry. If direct and uncontrolled relations between operators and labor are no longer capable of maintaining peace and insuring a coal supply at a fair price, the state must intervene, even to the extent, if necessary, of infringing upon private rights.

As Chief Justice White said in rendering the majority opinion of the Supreme Court in the so-called *Adamson Law* case:

The capacity to exercise the private right free from legislative interference affords no ground for saying that legislative power does not exist to protect the public interest from the injury resulting from a failure to exercise the private right. (*Wilson v. New*, 243 U. S., 353.)

This reasoning is as applicable to the coal industry as now organized and conducted as it is to railroad transportation. This may be said to be a fact of common knowledge among those who have devoted themselves to a study of the subject of the coal industry in its various aspects: productive efficiency, of management, the relations of employer and employee, the prices charged the public, etc.

The knowledge obtained by the increasing study of industrial conditions and relations is the fundamental factor back of the state's policy, as expressed by legislatures and as sustained by the courts. The legislatures as well as the courts must take and have taken notice of this growing fund of knowledge. The Constitution is a live, not a dead, instrument. Modern industrial organization has brought problems which require new laws and new interpretations of the Constitution. It is recognized that in the world as it exists to-day, certain restrictions upon personal liberty, however regrettable in theory, must be imposed in practise in order that greater damage may not otherwise be done to the body politic. The legislatures and the courts have long recognized these changed conditions. Factory inspection laws, child labor laws, eight-hour legislation for women, ten-hour legislation for men—these and innumerable other forms of legislation, all of which restrict in greater or less degree, the rights of persons and of property—have been passed, have been approved by the courts and are now accepted as matters of fact in the every-day activities of the government. In every case, however, these laws were long and bitterly fought, and with exactly the same arguments as those now advanced against the legal sanctioning of the right of collective bargaining.

Every undertaking or proposal to solve the modern industrial problem has been predicated upon a declaration of the right, or upon some concrete form, of collective bargaining. Wherever industrial peace prevails it has been brought about and maintained by the application of the principle; it has every sanction of experience and enlightened, authoritative opinion. It may be taken for granted, therefore, that the inclusion of the principle in the industrial code will not be protested or

debated. The controversy will be as to the wording of the declaration.

Labor leaders may be expected to contend for a phraseology that will establish trade-unionism as the basis for collective bargaining. Employers who believe in the non-union shop, and those who believe in the open shop, may be expected to stand for a declaration that cannot be construed in the interest of the trade-union movement. It has been demonstrated that these opposing elements will not agree between themselves.

Collective bargaining, if it means anything, means that the parties to the bargaining may be represented by whomsoever they may see fit to choose. The employer may do his own bargaining, or he may do it through his subordinates, through attorneys, through wage, employment and other industrial experts, or through anybody he may designate. The workers, on the other hand, must have equal latitude.

The question thus resolves itself into one as to whether the industrial code is to affirm the right of collective bargaining or the right of *limited* collective bargaining. If it is to be the latter, justice and fair dealing dictate that the limitations which are placed upon the worker should also be placed upon the employer, and obviously this would serve only to open the doors of dissension wider than ever.

If the declaration is to be for the principle of collective bargaining as such, some such simple phraseology as the following is proposed:

The right of employers and of employees to bargain collectively through representatives of their own choosing is recognized and affirmed.

CHAPTER IX

THE LIVING WAGE

Wage determination upon a basis of pure economics—ruthless competition and relentless application of the law of supply and demand—ceased when organized society accepted the principle that labor is not a commodity. There are yet to be found advocates of the old theory that an employer has a right to bargain for his labor as he bargains for his raw materials, and, conversely, that a worker has a right to sell his labor at the highest obtainable price, but must expect to accept the lowest price established competitively when labor is plentiful and employment is scarce, but they do not reflect either the spirit or the practise of the times. Enlightened world opinion of to-day rejects this theory no less emphatically than it rejects the idea of human slavery. The conception of industry as a social institution and the realization that industrial promotion, operation, and expansion should be a social service, subordinated to democratic ideals and aspirations and to the general welfare of the people, marked the passing of the old theory, and gave to the biblical assertion that the laborer is worthy of his hire an interpretation other than that the worker is entitled to exactly what he can get and nothing more.

Ecclesiastical writers early in the seventeenth century were undoubtedly groping toward the new idea when they first began the discussion of the rights of the workers with respect to wages. Somewhat timidly, they laid down the doctrine that the worker was entitled to the "usual" or "customary" rate of compensation. They

made no attempt to define this usual or customary wage, but they did establish the idea that there was such a thing as a just wage, and, hence, that the employer who did not pay it was not treating his employees fairly. This may be said to have been the entering wedge of ethics in the consideration of matters of economics.

Fundamentally, this grew out of the realization that if nature's law that men must work in order to live is inexorable, then organized society, if we are to have organized society, must see to it that those who will and do work *can* live. Labor is a necessity to society no less than to the individual, and to conserve labor, therefore, becomes a social obligation and responsibility. Thus, it came to be accepted that workers, even if willing to do so, should not be permitted to work under conditions that jeopardized unduly health, life or limb, and out of this grew the long line of legislation regulating industry with respect to sanitary conditions, safety appliances and precautions, compulsory provision for compensating workers or their families in case of injury or death, et cetera. Logically, the protection of the worker against inadequate wages should have been coincident with his protection against undue hazards of employment, but the resistance of the employer against any and all interference in wage fixing was stronger than his opposition to regulatory measures as to working conditions. So, for almost two centuries, we find that society placed no restrictions on employers in the matter of wages beyond a rather vague ethical injunction that they should be fair and just, and it was accepted generally that in order to be that it was only necessary for them to pay the usual or customary rate.

The rapid industrial development of the United States during the nineteenth century, however, had much to

do with establishing a new order in industry. When Daniel Webster, in 1824, said, "Labor in this country is independent and proud; it has not to ask the patronage of capital, but capital solicits the aid of labor," he was pronouncing the obituary of capitalistic absolutism in industry. It had remained for this New World with its wonderful natural resources, affording manifold opportunities to the individual to work for himself if he did not like the terms of employment offered him by another, to instil in the worker the spirit of economic independence that is no more to be denied than the self-evident truth that all men are created equal and endowed with the inalienable rights of life, liberty and the pursuit of happiness. Asserting that spirit of economic independence, the American workman speedily won recognition as a coordinate factor in industry, and demanded and received wages that enabled him to maintain standards of living that made him the envied of his kind throughout the world.

One of the first forceful expressions on the modern theory of wages was that of the late Pope Leo XIII in his encyclical, "On the Condition of Labor" in 1891:

We now approach a subject of very great importance, and one on which, if extremes are to be avoided, right ideas are absolutely necessary. Wages, we are told, are fixed by free consent, and, therefore, the employer, when he has paid what was agreed upon, has done his part and is not called upon for anything further. The only way, it is said, in which injustice could happen, would be if the master refused to pay the whole of the wages, or the workman would not complete the work undertaken. When this happens the State should intervene to see that each obtains his own, but not under any other circumstances.

This mode of reasoning is by no means convincing

to a fair-minded man, for there are important considerations which it leaves out of view altogether. To labor is to exert one's self for the sake of procuring what is necessary for the purpose of life, and most of all for self-preservation. "In the sweat of thy brow thou shalt eat bread." Therefore, a man's labor has two notes of characters: First of all, it is personal; for the exertion of individual power belongs to the individual who puts it forth, employing his power for the personal profit for which it was given. Secondly, man's labor is necessary; for without the results of labor man can not live; and self-conservation is a law of nature which it is wrong to disobey. Now, if we were to consider labor merely in so far as it is personal, doubtless it would be within the workman's right to accept any rate of wages whatever; for in the same way as he is free to work or not, so is he free to accept a small remuneration or none at all. But this is mere abstract supposition. The labor of the workman is not only his personal attribute, but is necessary; and this makes all the difference. The preservation of life is the bounden duty of each and all, and to fail therein is a crime. It follows that each one has a right to procure what is required in order to live; and the poor can procure it in no other way than by work and wages.

Let it be granted, then, that as a rule workman and employer should make agreements, and in particular should freely agree as to wages; nevertheless, there is a dictate of nature more imperious and more ancient than any bargain between man and man, that the remuneration must be enough to support the wage earner in reasonable and frugal comfort. If, through necessity, or fear of a worse evil, the workman accepts harder conditions because an employer or contractor will give him no better, he is the victim of fraud and injustice.

Two decades later, upon the occasion of his first inauguration as President of the United States, we find Woodrow Wilson dwelling upon and developing the same idea:*

There can be no equality of opportunity, the first essential of justice in the body politic, if men and women and children be not shielded in their lives, their very vitality, from the consequences of great industrial and social processes which they cannot alter, control, or singly cope with. Society must see to it that it does not itself crush or weaken or damage its own constituent parts. The first duty of law is to keep sound the society it serves. Sanitary laws, pure-food laws and laws determining the conditions of labor which individuals are powerless to determine for themselves are intimate parts of the very business of justice and legal efficiency.

One of the hopeful signs of the times is the fact that we are beginning to hear and to understand this "solemn moving undertone of our life," and our social legislation shows signs of an earnest desire to alleviate the dead burden of misery under which our toilers stagger and groan. (The State is gradually growing, through the development of its so-called police power, into the stature and dignity of *parens patriae*, guardian or custodian of the public welfare.) Honest business has nothing to fear from the exercise by the State of this sovereign obligation, for the temper of our people is eminently conservative, and, tho they may sometimes err in their choice of means, their sober judgment will not permit them to stray far afield from an impartial application of the strict principles of equity and justice. The business employer who objects to the payment of a living wage, I leave to meditate upon this solemn thought: "He that sheddeth blood and he that de-

* Inaugural Address, 1913.

fraudeth the laborer of his hire are brothers. The bread of the needy is the life of the poor; he that defraudeth them thereof is a man of blood."

Statesmen, churchmen, educators, economists, and social scientists, without a dissenting voice, have long argued the equity and the economic necessity of adequate compensation for working people; individual employers who were far-sighted long since recognized it as a policy urged by selfish expediency, if by nothing else. However, it was not until the whole world was at war and the strength of nations was measured primarily and essentially in terms of man-power, that it was proved indubitably what a menace to national welfare inadequate wages could be. Conscription in England and the United States revealed a surprisingly large percentage of adult males who were physically deficient for military service. Most of these deficient came from the wage-earning class, and most of the deficiencies were directly attributable to adverse living conditions, under-nourishment, poor housing, lack of proper medical attention, and the like. The fact that the time might come when the very life of a nation depended upon its able-bodied manhood made it all the more the duty of the nation to see that all its citizenry had a fair chance to become able-bodied, and to that end no one thing is so essential as that the great mass of the people—the workers—should be able to live according to standards of health and reasonable comfort.

The declaration of the principle of the living wage as a governmental war policy was the logical result. In the United States this declaration was embodied in the principles and policies of the National War Labor Board, given the force of law by the proclamation of the President, and followed by all government agencies that had to do with wage adjustments.

Postwar discussion and consideration of industrial problems have all been predicated upon the universal acceptance of the living wage principle. The second Industrial Conference called by President Wilson said in this connection:

Considered from the standpoint of public interest, it is fundamental that the basic wages of all employees should be adequate to maintain the employee and his family in reasonable comfort, and with adequate opportunity for the education of his children. When the wages of any group fall below this standard for any length of time, the situation becomes dangerous to the well-being of the State. No country that seeks to protect its citizens from the unnecessary ravages of disease, degeneration, and dangerous discontent can consistently let the unhampered play of opposing forces result in the suppression of wages below a decent subsistence level. Above that point, there may well be a fair field for the play of competition in determining the compensation for special ability, for special strength or special risk (where risk is unavoidable), but below that point the matter becomes one of which the State for the sake of its own preservation, must take account.*

The employers' group in the first Industrial Conference called by the president included the following in its statement of principles:

The wage should be so adjusted as to promote the maximum incentive consistent with the health and well-being and the full exercise of individual skill and effort. Moreover, the business in each establishment and generally in industry should be so conducted that the worker should receive a wage sufficient to maintain him and his family at a standard of living that should

* Report of Industrial Conference Called by the President, dated March 6, 1920; p. 37.

be satisfactory to a right-minded man in view of the prevailing cost of living, which should fairly recognize the quantity and quality of his productive effort and the value and length of his service, and reflect a participation on his part in the prosperity of the enterprise to which he is devoting his energy.

Labor's pronouncement on this subject in the same conference was as follows:

The right of all wage-earners, skilled and unskilled, to a living wage is hereby declared, which minimum wage shall insure the workers and their families to live in health and comfort in accord with the concepts and standards of American life.

In the bituminous coal arbitration the commission said in its award:*

We have decided to award as a substitute for the fourteen per cent increase, authorized by Doctor Garfield, a wage increase that is considerably higher. In arriving at the present wage award we were guided by the principle that every industry must support its workers according to the American standard of living.

The law under which the railroads were returned to private control and operation created a tribunal for the adjustment of the pay of railroad employees and provided as follows:†

All the decisions of the Labor Board in respect to wages or salaries, and of the Labor Board or an adjustment board in respect to working conditions of employees or subordinate officials of carriers shall establish rates of wages and salaries and standards of working conditions which in the opinion of the Board are

* United States Bituminous Coal Commission, Award and Recommendations, Government Printing Office, 1920; p. 36.

† Federal Transportation Act, 1920; Sec. 307 (d).

just and reasonable. In determining the justness and reasonableness of such wages and salaries or working conditions the Board shall, so far as applicable, take into consideration among other relevant circumstances:

- (1) The scale of wages paid for similar kinds of work in other industries;
- (2) The relation between wages and the cost of living;
- (3) The hazards of the employment;
- (4) The training and skill required;
- (5) The degree of responsibility;
- (6) The character and regularity of the employment; and
- (7) Inequalities of increases in wages or of treatment, the result of previous wage orders or adjustments.

Expressions from two men of widely differing points of view, neither of whom is identified directly with either of the parties to industry, may be cited as illustrative of the trend of modern thought. The first comes from an educator and publicist:*

It will be a sad day for this land when that man [the worker] can not dig enough out of life's task to make a happy home for his family. The divine obligation is upon him. The man who does not care for his own household is worse than an infidel, is the teaching of the Holy Scriptures. And a land which does not provide for the possibilities of that family's self-support, in its laws and economics, and enforce those possibilities by a vigorous common sentiment, should not call itself a Christian land.

We want, therefore, the highest and noblest estate for our fellow-workers who labor for wage. It should be inculcated as a common sentiment, not as a concession and in no form of charity. *It must be arranged*

* James R. Day, Chancellor of Syracuse University; *My Neighbor, The Working Man*, 1920; p. 359.

so that it is a right, as much as the right to trade at a profit, and to manufacture, and to build, and to invest for legitimate gain. The workingman must be on the same plane with his prosperous neighbors.

The second expression is that of a prominent financier and banker.*

The principle on which one should deal with the labor question is very simple. It is the principle of the Golden Rule. I think the formula should be that, first of all, labor is entitled to a living wage. After that, capital is entitled to a living wage. What is left over belongs to both capital and labor, in such proportion as fairness and equity and reason shall determine in all cases. . . . The worker must receive a wage which not only permits him to keep body and soul together, but to lay something by for a rainy day to take care of his wife and children, and to have his due share of the comforts, joys and recreations of life.

With such unanimity of opinion in support of the principle of the living wage, two conclusions are inevitable: (1) that wages are a first charge on industry, and (2) that the industry which can not or does not pay its workers a living wage is inimical to the best interests of society and has neither an ethical nor an economic right to exist. Mr. Justice Henry B. Higgins, President of the Australian Commonwealth Court of Arbitration, has held that the capabilities of an industry are not to be taken into account, so far as the living wage is concerned, since to do that would make want of skill and enterprise on the part of an employer a reason for stinting laborers in their prime necessities of life. "If," says Justice Higgins, "a man can not maintain his enterprise

* Otto H. Kahn, *Labor and the Golden Rule*, National Civic Federation Review, May 15, 1919.

without cutting down the wages which are proper to be paid to his employees—at all events, the wages which are essential for their living—it would be better that he should abandon the enterprise.”*

We come, therefore, to the consideration of the only phases of the subject that may be said at the present time to be matters of controversy: the definition of a living wage, and the method by which such a wage should be determined.

To quote again Mr. Justice Higgins:

The test of a fair and reasonable standard is a wage sufficient for the normal needs of the average employee residing in a civilized community. The essential needs are food, shelter and clothing. A full and generous allowance for this should be made the average man who may be assumed to support an average family consisting of himself, his wife and three dependent children. This living wage must be kept *sacro sanct* for all employees.†

Again he says:

It ought to be frankly admitted that, as a rule, the economic position of the individual employee is too weak for him to hold his own in the unequal contest. He is unable to insist on the “fair thing.” The power of the employer to withhold bread is a much more effective weapon than the power of the employee to refuse to labor. Freedom of contract, under such circumstances, is surely misnamed; it should rather be called despotism in contract; and this court is empowered to fix a minimum wage as a check on the despotic power. The fact that the court is not also empowered to fix a maximum wage (as under the Elizabethan

* 3 Commonwealth Arbitration Reports, p. 32.

† 2 Commonwealth Arbitration Reports, pp. 3-5.

laws) is a recognition of the difference in the position of the contracting parties. The worker is in the same position, in principle, as Esau, when he surrendered his birthright for a square meal, or as a traveler, when he had to give up his money to a highwayman for the privilege of life. Admitting all this, yet an employer often falls back on an economic theory as to the law of supply and demand—a theory which I have found to be responsible for much industrial friction, and to be at the root of many industrial disputes. He thinks that all this regulation of wages is a mistake—a defiance of natural laws. He treats the so-called “law” as being, in matters of wages, etc., more inexorable and inevitable in its play than even the law of gravitation—as not being subject, as “laws” of nature are, to counteraction, to control, to direction. One may dam up a river, or even change its course, but one can not (it is said) raise wages above the level of its unregulated price, above the level of a sum which a man will accept rather than be starved.*

From another Australian source, the Queensland Arbitration Act of 1916, we take this definition:

The minimum wage of an adult male employee shall not be less than is sufficient to maintain a well-conducted employee of average health, strength and competence, and his wife, and a family of three children, in a fair and average standard of comfort, having regard to the conditions of living prevailing among employees in the calling in respect to which such minimum wage is fixed, and provided that in fixing such minimum wage the earnings of the children or wife of such employee shall not be taken into account.

(The minimum wage for an adult female employee is similarly defined, except that the family obligations are not considered.)

* 5 Commonwealth Arbitration Reports, pp. 27, 28.

In the way of authoritative definitions from American sources we have, first of all, the principles of the National War Labor Board, which, after affirming the right of all workers, including common labor, to a living wage, provide that "in fixing wages, minimum rates of pay shall be established which will insure the subsistence of the worker and his family in health and reasonable comfort." We have also the provisions of the Federal Transportation Act of 1920, heretofore quoted, which stipulates that wages shall be "just" and "reasonable" and that in their determination such factors as the cost of living, wages in allied industries, hazards, skill, responsibility and regularity of employment shall be taken into consideration.

The law creating a Court of Industrial Relations for the State of Kansas, enacted in 1920, does not assert specifically the principle of the living wage; instead, it declares for the "fair wage." However, judicial interpretations under this Act would seem to make "fair wage" a broader, more comprehensive term than "living wage," so that it would be quite possible for a worker to be receiving a "living wage" but not a "fair wage." In the case of the State of Kansas on relation of Richard J. Hopkins, Attorney General W. J. Price, *et al.*, complainants, *vs.* The Topeka Edison Company, a corporation, respondent, the opinion and order of the court of March 29, 1920, included the following discussion of the living wage:

A living wage may be defined as a wage which enables the worker to supply himself and those absolutely dependent upon him with sufficient food to maintain life and health; with a shelter from the inclemencies of the weather; with sufficient clothing to preserve the body from cold and to enable persons to

mingle among their fellows in such ways as may be necessary in the preservation of life. But it is not a living wage only, which this court is commanded by the people of this State to assure workers engaged in these essential industries. The statute uses the word "fair" and commands us to assure to these workers a "fair" wage. What is a "fair" wage? Upon this subject, of course, there may be a great variety of opinions expressed. It seems safe to say, however, that the circumstances above enumerated should be considered in arriving at a conclusion as to what constitutes a fair wage. The skilled worker, in fairness, should have a higher wage than the unskilled worker. The worker who has spent years of time and effort in preparing himself for a peculiarly technical line of work is entitled to greater consideration from the public than the more unskilled worker. The hazards of the employment should also be noted, and the worker engaged in such an employment as that under consideration should receive a higher wage than his fellow who may be engaged in a safe occupation. The degree of responsibility placed upon the worker is a matter of importance. The continuity and regularity of the employment should be considered, for it is apparent that an employment which is seasonal in its nature must have a higher wage than one in which regular, steady work is offered, because, after all, it is the annual earnings that are to govern rather than the daily wage in many instances. By no means the least important consideration should be the industry and fidelity of the individual, for the worker who is faithful to his trust and is industrious, working to the best of his ability in the interest of his employer, is entitled, as a matter of right, to a greater reward than the worker who thinks only of his wage and not of the interest of his employer and of the public who are directly affected by his labors. Perhaps more important than

any other circumstances, however, is the relation of the wage to the cost of living.

It is apparent that while there may not be exact agreement as to the definition of the living wage, there is substantial agreement that such a wage must be sufficient to support the adult male worker and his family in a standard of living conducive to health and affording reasonable comforts. When it comes to determining the amount of the wage, however, there is a scientific method that approximates exactness. This is the budget method by which there is ascertained first the standards and quantities of food and other requirements to maintain a family in a given community on a health and reasonable comfort level, and, second, the cost of those items at current market prices and rates.

Numerous budgetary studies of this character have been made, but the most scientific of them, and the most exact, was that made by the Bureau of Labor Statistics of the Department of Labor in 1919, and revised in 1920, under the title, "Minimum Quantity Budget Necessary to Maintain a Worker's Family of Five in Health and Decency." This study works out in painstaking detail the exact quantity of every kind of food, every item of clothing, the housing requirements, *et cetera*, necessary for such a family, and when translated into dollars and cents by the application of current prices gives the annual wage required by the head of such a family at a given time and place.

The more important of these studies are summarized in the accompanying table, which shows the cost of each of the budgets at the time it was made and its cost in May, 1920, as computed by applying the estimated increase in the cost of living since the date of the original study. The figures for increased living costs are based

as far as possible on the reports of the National Industrial Conference Board and the Massachusetts Commission on the Necessaries of Life, both of which show somewhat smaller increases than the studies of the United States Bureau of Labor Statistics, hence may be held to be conservative.

The budgets* are divided into "subsistence" and "comfort" budgets, according as the character of the study indicates that the standard of living was a subsistence level or a health and reasonable comfort level, and all have used as a basis a family of five—husband, wife and three dependent children.

YEARLY COST OF VARIOUS FAMILY BUDGETS
AT TIME STUDIES WERE MADE AND COST
IN MAY, 1920

Budget	Original Date	Study Amount	Per Cent Increase Since Study was Made	Present Cost (May, 1920)
SUBSISTENCE LEVEL				
Wage-earners Budgets in New York City, Louise B. More....	1906	\$851.38	110.0	\$1,787.90
Standard of Living in New York City, R. C. Chapin.....	1907	900.00	110.0	1,890.00
Family Budgets in Chi- cago Stockyards Dis- trict, J. C. Kennedy and others.....	1914	733.62	101.3	1,476.78
Cost and Standards of Living in New York State, New York Factory Investigat- ing Commission....	1914	876.43	101.3	1,764.25

*All these budgetary studies may be found in detail in the bulletin, "Standards of Living," Bureau of Applied Economics, Washington, 1920.

YEARLY COST OF VARIOUS FAMILY BUDGETS
AT TIME STUDIES WERE MADE AND COST
IN MAY, 1920—Continued

Budget	Original Date	Study Amount	Per Cent Increase Since Study was Made	Present Cost (May, 1920)
Cost of Living of Un- skilled Laborer's Family, New York City, New York Bu- reau of Personal Service	Feb. 1917	\$ 980.42	61.4	\$1,582.40
Suggested Family Budget, Social Serv- ice Bureau, Bellevue Hospital	Feb. 1917	1,017.81	61.4	1,642.75
Subsistence Budget Submitted to Nation- al War Labor Board, W. F. Ogburn.....	June 1918	1,386.00	32.3	1,833.68
Suggested Budget for a Textile Mill Work- er's Family, Little and Cotton.....	Mar. 1919	1,723.00	25.4	2,160.64
Cost of Living Among Wage-earners in Fall River, Mass., Na- tional Industrial Conference Board*.	Oct. 1919	1,573.90	11.5	1,754.90
Cost of Living Among Wage-earners in Lawrence, Mass., National Industrial Conference Board*.	Nov. 1919	1,658.04	10.5	1,832.13
MINIMUM COMFORT LEVEL				
Minimum Budgetary Estimate for Pacific Coast Workers, Jes- sica B. Peixotto....	Oct. 1917	1,476.40	45.0	2,140.78

* The reports of the Board give data for two standards. The figures for the "more liberal standard" are used in this table.

YEARLY COST OF VARIOUS FAMILY BUDGETS
AT TIME STUDIES WERE MADE AND COST
IN MAY, 1920—Continued

Budget	Original Date	Study Amount	Per Cent Increase Since Study was Made	Present Cost (May, 1920)
MINIMUM COMFORT LEVEL Continued				
Budget Awarded in Seattle and Tacoma Street Railway Ar- bitration	Dec. 1917	\$1,505.60	42.7	\$2,148.49
Comfort Budget Sub- mitted to National War Labor Board, W. F. Ogburn.....	June 1918	1,760.50	32.3	2,329.14
Budget for a Govern- ment Employee's Family in Washing- ton, D. C., U. S. Bureau of Labor Statistics	Aug. 1919	2,262.47	15.0	2,601.84
Workingmen's Stand- ard of Living in Phil- adelphia, Philadel- phia Bureau of Municipal Research.	Nov. 1919	1,803.14	10.5	1,992.47
Budget for Bituminous Coal Mine Workers, W. F. Ogburn.....	Jan. 1920	2,118.94	5.8	2,241.84

The variation in the cost of the minimum comfort budgets is comparatively slight when the varying conditions under which they were made is taken into consideration, and when it is also understood clearly that the quantitative budgets in no two cases were the same. Experts agree that the quantitative budget can be standardized scientifically, and when that is done it is obvious

that the ascertaining of the living wage is a simple matter of mathematics.

With universal acceptance of the living wage principle its inclusion in the industrial code will not provoke controversy. That the affirmation of the principle is essential to any program looking to industrial peace is obvious, for as the Australian authority Justice Higgins has pointed out, just as a drowning man will struggle to get his head above water, so a worker will fight until he gets "enough wherewith to renew his strength and to maintain his home from day to day."

For the proposed code, accordingly, the following is suggested as the phraseology conforming to authoritative opinion and meeting the requirements indicated by experience:

The right of all workers to a living wage, with differentials for skill, experience, hazards of employment and regularity of employment, is recognized and affirmed.

CHAPTER X

THE HOURS OF LABOR

Every development in industry and in civilization has tended toward the reduction of the hours of labor. Specialization, standardization, quantitative production, invention, and the social instincts and aspirations of the workers have all contributed to the establishment of the principle of the shorter working day as a measure of efficiency and of humanity. The labor movement has given concrete expression to this in the almost universal demand for the eight-hour day, and experience with the eight-hour day is now so general that the facts are fairly familiar to all who deal with questions affecting the welfare of labor and the profitableness of industry. The purpose of the present discussion, therefore, is to present in as concise form as possible some of the most authoritative facts, opinions, and decisions on various phases of the question and to arrive at the conclusion which, logically, should be embodied in the industrial code.

Accordingly, certain facts have been summarized relating to the unmistakable movement toward the eight-hour day in American industry and to the status of American legislation on this subject, and since it is thoroughly recognized that the employer of labor must take into account the profitableness of various lengths of working days, a brief review is presented of the experience of a number of plants with the eight-hour day from the point of view of output.

The profitableness of a working day of a given length, however, is to be evaluated not only in its immediate

results upon output, but also in its effects upon the sustained efficiency of the worker. The question of the workers' health, therefore, of necessity enters into consideration, and a brief statement from authoritative sources on the physiological principles involved is presented.

Furthermore, the question has a much broader and even more important aspect. The length of the working day bears an important relation to certain social conditions, and the eight-hour day possesses a significance of community and national importance for the reason that the moral, mental, and social activities of the worker are affected by the degree of fatigue which his work entails and by the opportunity that is afforded him for self-improvement and civic interest outside of working hours. The nature of some of the more important phases of this question is suggested in the views of men of recognized eminence. It has been impossible, even were it desirable, to present all of the great mass of scientific facts that have accumulated, of the decisions that have been rendered, of the facts of actual experience and of the opinions of students, employers, labor leaders and publicists. Only a very small proportion of the available data has been utilized for the purpose of stating briefly some of the more salient facts and authoritative opinions.

During the war period previous movements for shorter hours were continued, and were greatly accelerated by the fact that government contracts required the eight-hour day. The eight-hour movement gained headway before the United States entered the war. As an instance of this fact may be cited the movement for the reduction of hours in the machine trades, which began late in 1915 and continued in 1916. Before our entry

into the war railroad employees secured the so-called basic eight-hour day, and the anthracite-coal agreement for an eight-hour day was also signed.

Industries which as a whole went on an eight-hour day, with additional pay for overtime, from January, 1915, to June, 1918, inclusive, are contained in the following tabulation. As this table was derived by the United States Bureau of Labor Statistics largely from newspapers and trade journals, it is not complete, nor does it contain industries in which numbers of wage-earners secured a reduction in hours from time to time as a result of sporadic agreements affecting only small numbers in certain localities:

SUMMARY OF REPORTS RECEIVED BY UNITED STATES BUREAU OF LABOR STATISTICS, SHOWING REDUCTION OF THE WORKING DAY TO EIGHT HOURS, 1915-1918.*

	1915	1916	1917	1918 January to June	Total
Number of reports..	121	210	369	181	881
Number of establishments affected	224	3,027	534	455	4,240
Number of employees affected	171,978	342,138	603,795	330,621	1,448,532

In following this movement, it may be noted, it has not always been possible to distinguish in the reports and sources of information the eight-hour day as representing an actual working day and the eight-hour day which is made the basis of wage compensation with extra pay for work beyond eight hours. However, while the movement has not always signified a reduction in hours of work for the wage-earners, it has at least signalized the acceptance of the principle of the shorter work day.

* Monthly Labor Review, September, 1918, p. 191.

The legislative enactments of an eight-hour day properly may be said to reflect public opinion on the question. In order to present these enactments briefly, the following summary prepared by the Women's Bureau of the United States Department of Labor (Bulletin No. 5, October 15, 1919) is reproduced:

(a) *Laws Establishing a Basic Eight-Hour Day*

Five States, California, Connecticut, Missouri, New York, and Pennsylvania, have laws stating that eight hours shall constitute a day's work unless otherwise agreed. Altho work above eight hours in any one day is to be paid extra compensation, it is not penalized by requiring rates of time and a half or double time.

The Federal Government has a far more definite law that provides that persons employed on contracts for the United States shall be paid on the basis of eight hours constituting a day's work, with time and a half for overtime.

Five other States, Illinois, Indiana, Montana, Ohio, Wisconsin, and the Federal Government have laws providing that eight hours shall be a day's work in a limited number of occupations. Illinois and Indiana cover only manual labor; Montana, labor on public highways; Ohio, work in manufacturing, mechanical or mining business; Wisconsin, work in manufacturing or mechanical business; United States, letter carriers.

These laws show legislative recognition of eight hours as a fair maximum day's work. There does not seem to be any underlying principle, other than this recognition, behind these laws. They do not aim to limit strictly hours in industries usually recognized as hazardous, nor, with the exception of Montana, do they attempt to limit hours and wages of State employees. On the contrary, all the State laws expressly provide that the act is not to prevent contracts or understandings that a longer period shall constitute a day's work.

(b) *Laws Establishing an Eight-Hour Day for All
Workers in Specified Occupations*

The largest group of laws limiting the hours of work to eight in any one day cover work done either directly or indirectly for the State.

Eighteen States, California, Idaho, Kansas, Kentucky, Maryland,* Missouri, Montana, Nevada, New Jersey, New Mexico, Ohio, Oklahoma, Pennsylvania, Texas, Utah, Washington, West Virginia, Wyoming; three Territories, Alaska, Hawaii, Porto Rico, and the Federal Government have laws definitely limiting the hours of labor on public works to eight in any one day. In addition to this, one State, Ohio, limits the weekly hours to forty-eight, and one Territory, Hawaii, limits the hours of labor on Saturday to five.

Eight States, Arizona, Colorado, Idaho, Kansas, Massachusetts, Minnesota, New York, Oregon, and the Federal Government limit the hours of labor for all manual workers employed on State work to eight in any one day. Moreover, two of these States, Colorado and Massachusetts, limit the weekly hours of such labor to forty-eight.

Nine States, Idaho, Kansas, Montana, New Jersey, New Mexico, Oklahoma, Oregon, Texas, Washington, and the Federal Government have laws providing that all persons working on contracts for material for the State shall be allowed to work only eight hours in any one day. Oregon also limits the weekly hours to forty-eight.

Eight States, Arizona, Idaho, Kansas, Montana, New Mexico, Oklahoma, Utah, Washington, and two Territories, Hawaii and Porto Rico, have laws limiting the daily hours of labor to eight in any one day, so broad in scope as to seem to cover all State employees. In six of these States, Arizona, Idaho, Montana, New

* Applies only to the City of Baltimore.

Mexico, Oklahoma, Utah, this provision forms part of the constitution of the State. In Hawaii the hours of labor are limited further by providing for a five-hour day on Saturday.

Four States, Connecticut, Montana, Oklahoma, Utah, have special statutes establishing an eight-hour day for various classes of employees of State institutions. These laws show great diversity in the classes included. Utah, for example, covers all employees of penal institutions; the other three States specify certain occupations such as firemen, janitor, etc., in all State institutions. In two other States, Idaho and Oregon, where employees of institutions would seem to be covered by the general law for the State employees, they are expressly excepted. Idaho excepts agricultural and domestic labor in State institutions, and Oregon excepts "any employee of any State institution," and then excepts the penitentiary from this exception.

One State, Massachusetts, and the Federal Government, have laws limiting the hours of employment of all persons working on public printing to eight in any one day. In the case of Massachusetts this means that all contracts are let with this provision in the contract, and with further stipulation that four hours shall constitute a day's work on Saturday unless the supervisor of State printing requires a full day of eight hours. The Federal law applies to the Government Printing Office. It directs the Public Printer to "rigidly enforce the eight-hour law" in all departments under his charge.

Outside of these acts regulating work done either directly or indirectly for the State, the largest group of eight-hour laws covers certain occupations considered especially hazardous.

Thirteen States, Arizona, California, Colorado, Idaho, Kansas, Missouri, Montana, Nevada, Oklahoma, Oregon, Utah, Washington, Wyoming, and one Territory, Alaska, limit the hours of work in mines, quarries, etc.,

to eight in any one day. The actual statutes differ very greatly. The Kansas law covers only lead and zinc mines; at the other extreme, the Arizona law specifies "all persons employed, occupied or engaged in work or labor of any kind or nature, in underground mines, underground workings, open-cut workings or open-pit workings, in search for or in the extraction of minerals, whether base or precious, or who are engaged in such underground mines, underground workings, open-cut workings or open-pit workings, for other purposes or who are employed, engaged or occupied in other underground workings of any kind or nature, open-cut workings or open-pit workings, for the purpose of tunneling, making excavations or to accomplish any other purpose or design."

Nine States, Arizona, California, Colorado, Idaho, Missouri, Montana, Nevada, Utah, Wyoming and one Territory, Alaska, have considered the work of refining and smelting of metals particularly hazardous and have limited the hours of labor in all such establishments to eight in any one day.

Arizona for the same reason has limited the hours of labor for all employees in electric-power plants to eight in any one day.

Nevada treats work in plaster and cement mills as among those occupations having special hazards, and limits the working day of all employees of such mills to eight hours.

Still another group of laws covers employees on whose alert attendance to duty depend the lives and safety of many others.

Two States, Arkansas and Connecticut, in recognition of this responsibility have limited the hours of railroad employees controlling the movement of trains to eight in any one day.

Three States, Arizona, Montana and Pennsylvania, have considered the duties of hoisting engineers at mines

as particularly arduous and have provided that they may not work more than eight hours in any one day.

Montana and the Federal Government limit the hours of labor for all persons employed on irrigation works to eight in any one day.

Probably in recognition of the strain of their duties, letter carriers have been especially recognized in Federal hour regulation.

The Federal Government has passed a special act limiting the hours of letter carriers to eight in any one day. A fifty-six-hour week is permitted if the employee is allowed an amount of time off on some day of the following week; the amount of time off to exactly correspond with the number of hours worked on Sunday.

Only one law in the United States establishes the eight-hour day for all wage and salary earners.

The Territory of Alaska has been the first political division of the United States to pass an all-inclusive eight-hour law. This law, which provides an eight-hour day for all wage and salary earners, was submitted to the electorate and passed. An Alaskan court, however, has declared it to be unconstitutional. No test case has as yet reached the United States Supreme Court.

These laws do establish a working day definitely limited to eight hours. They recognize, not that a person should be paid extra compensation for working over eight hours in any one day, but that the working day should stop with the completion of eight hours' labor. In many cases, this recognition seems to be based on the feeling that the occupation so regulated is dangerous or wearisome above the ordinary. In the acts limiting the hours for persons working for the Government and on Government contracts, however, there seems to be a definite recognition of the maximum eight-hour day as the longest justifiable period of any labor and of the obligation of the Government when employing labor to conform to a fair standard.

From an international view-point we find that twenty countries had embodied in their legislation, and one in its constitution, the principle of the eight-hour day or forty-eight-hour week before the International Labor Conference, under the League of Nations, drafted its convention recommending the eight-hour day and the forty-eight-hour week for incorporation into national legislation. Thus, as pointed out in effect by various speakers among Government and labor delegates, the conference was merely engaged in registering accepted principles, or at the very most, in harmonizing divergencies of practise in respect to the application of the eight-hour day. It was insisted upon by the workers and the Government delegates that the committee appointed to study the matter and to draft a convention should consider only the practical aspects of the matter, that the principle had already been agreed upon. To appoint a committee to discuss the principle of the eight-hour day and the forty-eight-hour week, would be, as one Government delegate wittily put it, like appointing a committee for the discovery of America.

The following statement shows the countries included and the date of enactment of the eight-hour laws. The State laws of the United States and those of the States comprising the Federal unions of some of the South American countries have been omitted. No attempt has been made to cover those eight-hour laws of certain countries which are applicable to public employments, nor those already applying to mines. While some of these newer laws include mining, yet before the war and before the springing up of these general eight-hour laws, mining was already practically an eight-hour industry the world over, and is now moving in the direction of a seven- or six-hour day:

GENERAL EIGHT-HOUR LAWS IN FOREIGN COUNTRIES*

Country	Date	Country	Date
Austria	Dec. 19, 1918.	Panama	Not ascertained
Czecho-		Peru	Jan. 15, 1919.
Slovakia ..	Dec. 9, 1918.	Poland	Nov. 23, 1918.
Denmark	Feb. 12, 1919.	Portugal ...	May 7, 1919.
Ecuador	Sept. 11, 1916.	Russia	Oct. 26 (Nov. 11), '17.
Finland	Nov. 27, 1917.		
	(amended Aug. 14, 19, '18).	Serbs, Croats and Slovenes (Jugoslavia)	Sept. 12, 1919.
France	Apr. 23, 1919.	Spain	Apr. 3, 1919.
Germany	Nov. 23, 1918.	Sweden	Oct. 17, 1919.
Luxemburg ..	Dec. 14, 1918.	Switzerland .	June 27, 1919.
Mexico	Jan. 31, 1917.†	Uruguay	Nov. 17, 1915.
Netherlands..	Nov. 1, 1919.‡		
Norway	Aug. 14, 1918.		

That the length of the working day bears a very definite relation to output is no longer a theory: it has been proven by actual records in modern industrial establishments.

Under an eight-hour day it has been shown that not only is the output per hour per worker increased, but that the output of the entire plant for the entire day, and for longer periods of time, has been materially increased.

More than half a century ago the study of fatigue was begun in laboratories. The effect of over-exertion on the muscular and nervous system was carefully and scientifically investigated and the principle was established that over-fatigue had deleterious results. But only within recent years has the actual application of this principle in industry been tested. Numerous general opinions and observations are to be found in the state-

* United States Bureau Labor Statistics, Labor Review, March, 1920, pp. 184-185. See also, Report on 8-hour day or 48-hour week, prepared by the Organizing Committee for the International Labor Conference, Washington, 1919 (London, 1919), p. 156.

† Constitution.

‡ Date in effect.

ments of employers and efficiency engineers; in practically no instance has a modern large employer of labor gone on record as favoring a longer working day rather than a shorter one.

In the following paragraphs is presented a summary of the experience of a number of plants relating to the effect of reduction of hours upon output. The data are by no means exhaustive, but they are believed to be fairly representative.*

* The following sources of information have been consulted:

Munitions manufacturing (Great Britain). Great Britain Ministry of Munitions, health of munition workers committee, memoranda Nos. 5, 12, 7, 20. Great Britain Home Office, investigation of fatigue by physiological methods.

Commonwealth Steel Co., iron and steel. United States Bureau of Labor Statistics, report on conditions of employment in the iron and steel industry in the United States (S. Doc. No. 110, 62d Cong., 1st sess., v. 3).

John E. Grant (England), iron and steel. Letter from John E. Grant published in *Engineering* (London), October 22, 1915.

Anthracite coal, mining. Monthly Review of the United States Bureau of Labor Statistics, August, 1917.

William J. Crawford Co., granite. Letter from W. J. Crawford published in the hearings on the eight-hour bill (H. R. 27281) before the House Committee on Labor, January 30 to February 6-12, 1913.

United States Navy Yard vs. Newport News Shipbuilding Co., battleships. The eight-hour day and Government construction by direct labor, by Ethelbert Stewart. In Commons, May, 1905.

Paper manufacturing industry, paper. United States Tariff Board. Report on pulp and newsprint paper industry, 1911.

W. H. McElwain Co., boots and shoes. The Survey, May 12, 1917, reprinted in the United States Bureau of Labor Statistics Monthly Review, June, 1917.

Boot and shoe industry, boots and shoes. National Industrial Conference Board. Hours of work as related to output and health of workers: Research report No. 7, June, 1918.

Fayette R. Plumb (Inc.), tool manufacture. Monthly Review of the United States Bureau of Labor Statistics, June, 1917.

J. H. Williams & Co., iron forgings. United States Industrial Commission Report, 1901, volume 14.

Cotton manufacturing, cotton. National Industrial Conference Board. Hours of work as related to output and health of workers, cotton manufacturing. Research report No. 4, March, 1918.

Manufacturing (general), manufacturing. Eight hours for laborers on Government work. Report by V. M. Metcalf, Secretary Department of Commerce and Labor, on H. R. 4064 (eight-hour bill), 1904.

Zeiss Optical Works, Jena, Germany, optical goods. Abbe, Ernst. Die Volkswirtschaftliche Bedeutung der Verkürzung des industriellen arbeitstages. Jena, 1901. Digest in Goldmark's "Fatigue and Efficiency," 1912.

Engis Chemical Works, Leige, Belgium, chemical goods. Fromont, L. G. Une experience industrielle de reduction de la journee de travail. Brussels, 1906. Digest in Goldmark's "Fatigue and Efficiency," 1912.

1. Commonwealth Steel Co., Granite City, Ill., iron and steel, 1912, twelve to eight hours. Under the eight-hour system, in spite of the increase in hourly rates, there was a slight decrease in the cost of production, owing to the higher efficiency of the workers. Also, the quality of the product was very much improved.

2. John E. Grant Co., England, iron and steel, 1914, from two ten-hour shifts to three eight-hour shifts. Normal weekly working hours increased thirty-four per cent. Output per man-hour increased, each man in his forty-eight-hour week doing as much as he did before in the fifty-hour week. Output increased fifty per cent.

3. W. H. McElwain Co., Boston, Mass., boot and shoe, 1916-17, fifty-five-hour week to fifty-two-hour week. Productive unit per employee per day increased from 8.91 to 9.02. "Our experience has been that overtime work is decidedly undesirable."

4. Twelve coal companies, anthracite coal, 1915-16, nine to eight hours. Output per man-day for miners and miners' laborers in gross tons increased from 4.08 in 1915 to 4.20 in 1916; output per man-day for all labor in gross tons increased from 2.03 in 1915 to 2.06 in 1916.

5. William J. Crawford & Co., Buffalo, granite, 1912, ten to nine hours and nine to eight hours. The same man, under identically the same conditions, accomplished more of exactly the same kind of work when he was working nine hours than he did when he was working ten hours; and again, when the hours were reduced to eight hours this same man accomplished still more in an eight-hour day than he did in a nine-hour day.

Salford Iron Works, Manchester, England, iron and steel. Eight hours for laborers on Government work. A report of the Secretary of Commerce and Labor to the House Committee on Labor, 1905.

Cleveland Hardware Co., hardware. Survey, February 2, 1918.

Joseph Feiss Co., clothing. Survey (New York), February 2, 1918.

"The Case for the Shorter Work Day," brief of Mr. Felix Frankfurter in the Oregon ten-hour case before the Supreme Court of the United States, 1915.

6. United States Navy Yard of Brooklyn, and Newport News Shipbuilding Co. (a private company), shipbuilding, 1903-4, eight-hour day in government yard; ten-hour day in Newport News Co. Two battleships were built simultaneously, one, the *Connecticut*, by the United States navy yard in Brooklyn, under the eight-hour day and by union men; the other, the *Louisiana*, by contract by the Newport News Shipbuilding Co., employing its men ten hours a day. The average production per man per hour on the *Connecticut* exceeded by 24.48 per cent the average production per man per hour on the *Louisiana*.

7. Several paper mills, paper manufacture, 1908-9, twelve to eight hours. Change from a twelve-hour to an eight-hour system in 1909 showed a reduction in the labor cost per ton of paper from \$4.35 to \$3.73. In other words, an increase in the hourly rate of wages to the extent of 33 per cent not only failed to result in a corresponding increase in the cost of labor per ton of paper, but was accompanied by an actual reduction in cost. While the figures of \$4.35 in 1908 happened to be the highest in ten years, there was not a single year in that decade under the twelve-hour system which showed as low a cost as in 1909, the first year under the eight-hour system.

8. One hundred and ninety establishments, boot and shoe manufacturing, 1916-17, from fifty-four to fifty hours in majority of cases. Study made by National Industrial Conference Board presents the employer's point of view. Of seventy-seven establishments reporting an output after reduction in hours, 31.2 per cent state that it was maintained and 68.8 per cent that it was decreased. Both groups reported an average reduction of between four and four one-half hours. The report concludes: "If all such hindrances as inefficient management, irregular hours, short-time piece-workers and arbitrary reduction were eliminated, and a genuine

spirit of cooperation was secured, it is possible that a fifty-hour week would be as productive as a longer one."

9. Fayette R. Plumb (Inc.), Philadelphia, Pa., tool manufacturing, 1916-17, fifty-seven and one-half hours per week to fifty-two and one-half hours per week. "The weekly production in one of our worst departments, in spite of the shorter hours, has increased 18.4 per cent, and in the entire plant ten per cent."

10. J. H. Williams & Co., Brooklyn, N. Y., iron and steel forgings, 1901, ten-hour day to nine-hour day. There is a slightly larger average output for the nine-hour day than for the ten-hour day, though in every other respect the work was done under similar conditions. There is, throughout, an increased rate of hourly output and a total output somewhat larger for the shorter working time.

11. One hundred and thirty establishments, cotton manufacturing, 1917, fifty-seven to fifty-four hours and sixty-four to sixty hours. Study made by the National Industrial Conference Board presents the employer's viewpoint. Of the 130 establishments, 7.7 per cent maintained their previous output; sixty-two per cent showed a decrease in output; the effects upon output in the other establishments were not reported. Changes in policy, management, efficiency of machinery, material manufactured during period of investigation not stated.

12. Three hundred and ninety-six establishments, eighty-three manufacturing industries, 1904, various reductions. Out of 334 establishments, 11.1 per cent found no increase in cost of manufacture resulting from reduction in hours, while 88.9 per cent found manufacture was increased; also 9.3 per cent reported no decrease in quality of product, whereas in 90.7 per cent a decrease in product did result.

13. Zeiss Optical Works, Jena, Germany, optical instruments manufacturing, 1900, nine to eight-hour

day. Under the eight-hour system, as compared with the superseded nine-hour system, the hourly earnings of pieceworkers increased 16.2 per cent. This represents a greater daily output than before.

14. Engis Chemical Works, near Liège, Belgium, chemical manufacturing, 1892, two twelve-hour shifts (ten hours actual work) to three eight-hour shifts (seven and one-half actual work). Within six months after the change was effected the workers had equaled in seven and one-half hours the previous output of ten hours and the daily earnings for seven and one-half hours' work equaled the amount formerly earned in ten hours. The total cost of production was reduced 20 per cent and the quality of the output improved.

15. Salford Iron Works, Manchester, England, machinery manufacturing, 1893, fifty-three hours per week to forty-eight hours per week. At the end of a year's time it was found that the amount of output for the year was slightly greater than the average of the six preceding years.

In 1917, when the question of output was of paramount importance, the Public Health Service, in conjunction with the committee on industrial fatigue of the Council of National Defense, and the committee on fatigue in industrial pursuits of the National Research Council, began an investigation of the effects of certain industrial conditions on output, especially the influence of fatigue, as shown by the relative production under different working hours when other conditions were reasonably similar.

Accordingly, a study was made of two plants where conditions, other than the length of a working day, were as similar as could be found. The investigation was made by P. S. Sargent and his associates, under the general direction of Frederick S. Lee, and the report was

prepared by Josephine Goldmark and Mary D. Hopkins, all of the Public Health Service.

This study was the first comprehensive investigation made with the definite purpose of ascertaining the relative efficiency of the eight-hour and ten-hour systems. In view of its importance and of the fact that it was conducted by so unbiased an agency as the Federal Public Health Service, its findings have especial significance and weight.*

The following is a summary of the conclusions stated in the language employed by the Public Health Service:

A comparison of the eight-hour and ten-hour systems leads to the conclusion that the eight-hour system is the more efficient. This is evidenced by—

1. *Maintenance of output*—The day shift: The outstanding feature of the eight-hour system is steady maintenance of output. The outstanding feature of the ten-hour system is the decline of output.

2. *Lost time*—Under the eight-hour system work with almost full power begins and ends approximately on schedule, and lost time is reduced to a minimum. Under the ten-hour system work ceases regularly before the end of the spell and lost time is frequent.

3. *Stereotyped or restricted output*—Under the ten-hour system artificial limitation of output is widely prevalent. Under the eight-hour system output varies more nearly according to individual capacity.

4. *Industrial accidents*—(a) In the absence of fatigue, accidents vary directly with speed of production owing to increased exposure to risk.

(b) The breaking up of this regular variation by fatigue is indicated by—

(1) The rise of accidents with the fall of output;

* Treasury Department, United States Public Health Service. Studies in industrial fatigue: Fatigue in relation to working capacity. Comparison of an eight-hour plant and a ten-hour plant. Public Health Bulletin No. 106, February, 1920.

- (2) The disproportionate rise of accidents with the rise of output and the absence of a proportionate fall of accidents with the fall of output in the final hours of the day.

(c) The importance of fatigue in the causation of accidents is emphasized by the fact that the higher accident risk accompanies the deeper decline of working capacity—

- (1) In the second spell as compared with the first;
- (2) In muscular work as compared with dexterous and machine work;
- (3) At the ten-hour plant as compared with the eight-hour plant.

(d) The level of the accident rate varies inversely with the experience of the workers.

According to records of output under a ten-hour day as compared with that under an eight-hour day in certain factories in Illinois, the output per day and per hour was actually greater under the eight-hour day system than under the ten-hour day system.*

These factories employed women chiefly; nevertheless the records obtained throw light on the general question of productivity in relation to the length of the working day.

The first results of an actual test of the reduction of the length of shifts from twelve to eight hours in the steel industry were published in 1912.† This test was made in the Commonwealth Steel Company's foundry at Granite City, Ill.

The results are summarized as follows:‡

The workmen in the open-hearth department and

* Hours and health of women workers. Report of Illinois Industrial Survey, Dec., 1918, Springfield, Ill.

† R. A. Bull: "Economic side of the 12-hour shift in the steel foundry." Transactions of the American Foundrymen's Association, 1912.

‡ Report on conditions of employment in the iron and steel industry in the United States. S. Doc. 110, 62d Cong., 1st sess., Vol. III, p. 187 et seq.

boiler room were changed in 1912 from a system of two twelve-hours shifts to one of three eight-hour shifts. To do this required increasing the number of men in the open-hearth department from twenty-two to thirty-three, but in the boiler room it was necessary to increase the number of men only from eight to ten. The hourly wage rates of all the men concerned were increased an average of 20 per cent. Exactly the same products were made under the two systems of working hours.

Under the eight-hour system, in spite of the increase in hourly rates, there was a slight decrease in the cost of production, owing to the higher efficiency of the workers. There were very considerable reductions in the amount of pig-iron charged and in the amount of fuel oil consumed. Also, the quality of the product was very much improved.

It is indubitable that the health of the worker is fundamental to his own efficiency, to the well-being of his family and of his community, and to the productivity and profitableness of the industry in which he contributes his mental and physical labor. The modern employer is thoroughly committed to this principle, not only as the result of humanitarian considerations, but as a matter of sound business.

Upon this basis, every condition under which the wage-earners work is being subjected to scrutiny as to its actual or possible effects upon the physical and mental health of the worker. The length of time a man can continue profitably at work, without rest, is probably the most important question to which an answer is sought. It is known that the fatigue which follows excessive working hours may become chronic and result in general deterioration of health. While it may not result in immediate disease, it undermines the vitality of the

worker and leads to general weakness, anemia, or premature old age. Continuous overexertion has proved even more disastrous to health than a certain amount of privation; and lack of work in industrial crises has entailed less injury to health than long-continued overwork. The excessive length of working hours, therefore, constitutes in itself a menace to health.

Overfatigue from excessive working hours not only renders overtaxed workers susceptible to general and infectious diseases; it predisposes them effectually to more subtle nervous disorders, especially neurasthenia in its various forms.

Neurasthenia and other nervous diseases are due to overstrain of the nervous system. Since the central nervous system regulates all the vital functions, nervous exhaustion or neurasthenia may affect all organs and functions of the body.

Intense and long-lasting fatigue is a characteristic of the disease. Disorders of the heart, circulation, the special senses and the digestive apparatus are common symptoms.

These are facts of scientific knowledge and actual experience. The numerous experiments, tests, results of scientific investigations and observations can not be presented in a brief exhibit, but the physiological principle which underlies the question of the proper length of the working day has been stated in a few words by the United States Public Health Service as follows:

Work performed by any of the body cells produces waste products and other changes in those cells. Up to a certain limit, work, in the resulting cell changes, is beneficial and improves the physical condition; but when work is excessive, too long prolonged, or too fast, the waste products begin to accumulate, the physiologic

changes fail to occur, and if not properly rested the cells are damaged.—*Public Health Bulletin 76, U. S. Public Health Service, 1916, p. 10.*

The above statement may be accepted as a clear-cut summarization of the facts in non-technical language. The literature on industrial hygiene and on the effect of overexertion upon the human organism affords a multitude of facts and conclusions which corroborate this statement. It has been authoritatively proven by experiment and experience that overfatigue leads to a breaking down of the muscular and nervous system, and results in loss of health and the power of self-restraint.

However, the shorter work-day is not merely a matter of importance to the individual worker and to his employer; it has a much wider significance. The worker is a citizen. Upon his intelligence, his health, and his chance for mental development rests in large measure the intelligence with which the affairs of the municipality and the State are conducted, the health of his family and of his descendants, the progress of the community and of the nation. Any measure which strengthens his self-restraint and elevates his enjoyments, which widens his opportunity for self-improvement, and which stimulates his civic interest is a measure of national significance.

This vitally important phase of the eight-hour question was eloquently summed up by President McKinley during his service in Congress, and in a quotation by him of Cardinal Manning's words. It has also been emphasized by President Wilson.

Mr. McKinley said:

The tendency of the times the world over is for shorter hours for labor; shorter hours in the interest of health, shorter hours in the interest of humanity, shorter hours in the interest of the home and the fam-

ily. . . . Cardinal Manning in a recent article spoke noble words on the general subject, when he said:

"But if the domestic life of the people be vital above all; if the peace, the purity of homes, the education of children, the duties of wives and mothers, the duties of husbands and of fathers, be written in the natural law of mankind, and if these things are sacred far beyond anything that can be sold in the market, then I say if the hours of labor resulting from the unregulated sale of a man's strength and skill shall lead to the destruction of domestic life, to the neglect of children, to turning wives and mothers into living machines, and of fathers and husbands into,—what shall I say,—creatures of burden? I will not say any other word—who rise up before the sun, and come back when it is set, wearied and able only to take food, and lie down and rest, the domestic life of man exists no longer and we dare not go on in this path."*

In his remarks urging the Adamson Law, President Wilson set forth his reasons in general in justification of an eight-hour day for workers on public utilities, as follows:

You know that we have been a legalistic people. I say with all due respect to some men for whom I have a high esteem that we have been too much under the guidance of the lawyers, and that the lawyer has always regarded the relations between the employer and the employee as merely a contractual relationship, whereas it is, while based upon a contract, very much more than contractual relationship. It is a relationship between one set of men and another set of men with hearts under their jackets, and with interests that they ought to serve in common and with persons whom they love and must support on the one side and on the other.

* Congressional Record, Vol. XXI, Part X, pages 9,300-9,301, August 28, 1890. Remarks of Mr. McKinley upon the Eight-Hour Bill.

Labor is not a commodity. It is a form of cooperation, and if I can make a man believe in me, know that I am just, know that I want to share the profits of success with him, I can get ten times as much out of him as if he thought I were his antagonist. And his labor is cheap at any price. That is the human side of it, and the human side extends to this conception, that that laboring man is a part of his employer. If he is a mere tool of his employer, he is only as serviceable as the tool. His enthusiasm does not go into it. He does not plan how the work shall be better done. He does not look upon the aspect of the business or enterprise as a whole and wish to cooperate the advantage of his brains and his invention to the success of it as a whole. Human relationships, my fellow citizens, are governed by the heart, and if the heart is not in it nothing is in it.

Because a man does better work within eight hours than he does within a more extended day, and that is the whole theory of it, a theory which is sustained now by abundant experience, that his efficiency is increased, his spirit in his work is improved, and the whole moral and physical vigor of the man is added to. This is no longer conjectural. Where it has been tried, it has been demonstrated. The judgment of society, the vote of every legislature in America that has voted upon it is a verdict in favor of the eight-hour day.

The reasonable thing to do is to grant the eight-hour day, not because the men demand it, but because it is right, and let me get authority from Congress to appoint a commission of as impartial a nature as I can choose to observe the results and report upon the results in order that justice may in the event be done the railroads in respect of the cost of experiment.

In its handling of the problem of the hours of labor

the National War Labor Board was governed by the following principle:

The basic eight-hour day is recognized as applying in all cases in which an existing law requires it. In all other cases the question of hours of labor shall be settled with due regard to governmental necessities and the welfare, health, and proper comfort of the workers.

Under such a Board rule it was found difficult to secure an agreement in the Board defining the proper working day, and no such general decision or opinion was ever handed down. The Board rendered several decisions in favor of the basic forty-eight-hour week with a guarantee of a minimum number of hours of employment in the following language:

The employer shall guarantee to each worker who shall be employed on the first day of any week the opportunity to work at least forty-four hours in such week, or thirty-six hours where a holiday intervenes, exclusive of overtime or extra time, and in default of providing such employment shall pay the worker full wages for such hours, exclusive of overtime and extra time.

More frequently the Board awarded the basic eight-hour day, either stating the reasons applicable to the particular cases under consideration or refraining from any statement of reasons. In other cases it decreed a nine-hour day, because the workers had asked for it or because the parties to the cases were agreed upon it. And in still other cases, it provided for collective bargaining and left the question of hours to agreement under such collective bargaining. However, where the issue as to hours was sharply drawn, without any determining

considerations such as governmental laws or necessities, or prevailing conditions in the industry in question, the Board failed to agree and the decision was left to the award of an umpire. The awards of the umpires in four such cases may be cited, as follows:

A. Award, Henry Ford, umpire, *in re* International Association of Machinists, Local No. 818, *vs.* Wheeling Mold & Foundry Co., Wheeling, W. Va.:

The National War Labor Board having agreed to submit to the undersigned for his determination as umpire one single question, and that only, as follows:

Should the National War Labor Board render a decision granting the demand of the machinists of the Wheeling (West Virginia) Mold & Foundry Co. for a basic eight-hour day, with time and one-half for overtime and double time Sundays and legal holidays?

I, the said Henry Ford, do hereby answer the said question, Yes.

I have reviewed the arguments and have given the question due thought and consideration, and have come to the conclusion stated, but do not deem it necessary to give my reasons unless your honorable board shall express a desire for the same.

But I can not refrain from expressing my very deep conviction that the straight eight-hour day is much better practise than the so-called "eight-hour basic day" where the latter is continually and almost uniformly being practically exceeded in the number of working hours.

My experience, and also my reason, teaches me that very few emergencies ever exist in a manufacturing business justifying the practise of exceeding eight working hours per day. The strain of eight hours is enough, and the hours should never be increased except under the most extraordinary circumstances. I can not dwell

too much on this. For the good of the men, for the good of the employer, and for the general results, I would admonish those interested to adhere to the straight eight-hour day.

Respectfully submitted,

HENRY FORD, *Umpire*.

B. Award, Mr. Otto M. Eidlitz, umpire, *in re* Employees *vs.* Employers in Munition and Related Trades, Bridgeport, Conn.:

In view of the fact that the evidence proves that an overwhelming majority of the firms, parties to this controversy, have, through the operation of this principle, or voluntarily, conceded an eight-hour work-day to the workers in their shops, it is only reasonable that those firms which hold a different opinion should comply with the will of the majority, and hence the eight-hour work-day should be established in all shops and factories subject to this ruling. I am constrained to come to this conclusion, knowing the dissatisfaction and consequent interference with output that accrues in a manufacturing community where a basic work-day has come to be generally recognized, but is resisted by a minority.

C. Award, V. E. Macy, umpire, *in re* Marine Workers' Affiliation of the Port of New York *vs.* Railroad Administration, Shipping Board, Navy Department, War Department and Red Star Towing & Transportation Co.:

The desirability of limiting the working day to eight hours has been recognized by Congressional enactment for all government departments and on all direct government contracts, by most State Legislatures and municipalities, by the Railroad Administration, and is the prevailing custom in many of our largest industries. Such a general acceptance of the principle of an eight-hour work-day has not been obtained merely through

sentiment. The nation has come to realize that its security demands that its citizens have a reasonable opportunity for family life, a reasonable amount of leisure, and a proper standard of maintenance. In view of this recognition the nation has the right to demand of its able-bodied citizens eight hours' service, for six days in the week, in some useful effort. Good citizenship requires that this service be rendered either voluntarily or for pay, according to the financial needs of the individual. The right to an eight-hour day carries with it the obligation upon the part of the individual to render better service during the fewer hours, for no right can be obtained without its corresponding obligation.

. . . . Excessive hours are as dangerous to good citizenship as are noxious fumes to the health of workers. There may be certain occupations in which the straight eight-hour day is inherently impossible; if so the basic eight-hour day should be the standard and the pay for overtime regarded as a legitimate expense and a just charge to be borne by the public. It would seem, therefore, that the burden of proof that an eight-hour day is impossible in an industry lies on those who deny its practicability as well as upon those who request its installation.

D. Award, Judge Julian W. Mack, umpire, *in re* Local No. 81, Iron Molders' Union *vs.* Iron Foundry Owners of Elizabeth, N. J.:

Under the express principles governing this Board in fixing hours of labor, due regard is to be given to the welfare, health and proper comfort of the workers. For the reasons set forth in the opinions of the umpires in other cases before this Board and also most carefully expounded by Judge Alschuler in the Stockyard Case, these considerations fully justify the demands for the eight-hour day in the present stage of industrial develop-

ment, especially in an industry like that here in question in which there is involved not only hard physical labor, but changing conditions of temperature under which the work is performed.

Social scientists and industrial experts agree that the hours of labor should be the minimum commensurate with maximum efficiency and productivity of the workers. Experience indicates the eight-hour day as the standard. There are dangers in excessive leisure no less than in excessive work, and the ideal to be attained is a work-day that will secure from the worker the full share of productivity which he owes to society and at the same time yield the worker the living wage which society owes those who will work faithfully and cheerfully. Where the straight eight-hour day is impracticable, then it would appear that the basic eight-hour day should prevail, with an additional payment for overtime to compensate the worker for the extra effort and for the sacrifice of time that may be said to belong to the individual as such in contradistinction to that part of his time which may be held to belong to society.

For the purposes of the industrial code, therefore, the following principle is suggested:

Eight hours is recognized as the standard work-day and six days as the standard work-week. If conditions render the application of the standard work-day and work-week impossible or impracticable, then the basic eight-hour day and forty-eight hour week shall prevail, with payment for overtime or extra time at a rate in excess of the basic hourly or weekly rate.

CHAPTER XI

THE RIGHTS AND RELATIONS OF WOMEN IN INDUSTRY

The problem of women workers and their rights and relations in industry is conditioned by the fact that women are the mothers of the race and, hence, have a claim to consideration other and beyond their mere economic rights. It is recognized that society owes them more than an opportunity to work and to earn a living, and that they can not be dealt with on the same terms as men workers. Motherhood and potential motherhood are vital factors in the equation. The health of women workers must be more carefully safeguarded, and adjustments must be made on the basis that their periods of reduced productivity, or non-productivity, are compensated for by their contribution to the State in bearing children. At the same time, the fact can not be escaped that women in industry come into competition with men workers who are heads of families, or potential heads of families, with a resultant tendency toward lowering wages below the level on which the man can support himself and family in health and reasonable comfort. If the earnings of the head of the family are insufficient to support the family, then the wife and children must work. Thus, a situation apparently develops in which it follows that the more women there are in industry, the more there will be who will be forced to undertake the rôle of wage-earners. This, obviously, is not to be desired, from the viewpoint either of what is good for industry or what is good for society.

In an ideal society, perhaps, women would have no duties or responsibilities other than those of a domestic character. The whole trend of modern times, however, has been toward the assertion by woman of political equality and economic independence, and it is idle to think of a solution of the industrial problem on the basis of what could be or should be the conditions of an ideal form of society. Women workers we have and shall continue to have. Where women once went into industrial occupations as a matter of necessity, many of them do so as a matter of preference, and in the effort to accord them fair treatment there is a grave danger that industry will be made too attractive to them; a possibility that the woman of the future will do less than her full duty to society in the way of bearing and rearing children. Centuries of dependence made independence a thing greatly to be desired by women, but it is none the less fraught with dangerous possibilities, and social and economic adjustments that must be made under the new order should be approached with deliberation, and undertaken solely on the basis of the general welfare. Sex selfishness has no more place in orderly society than class selfishness or individual selfishness. In the struggle for political equality, woman has made much of the shibboleth, "Are women human beings?" and not always has due emphasis been placed on the fact that they are social beings no less than human beings, with obligations corresponding to their rights.

This discussion is not so much of a digression as it might appear to some to be. It is essential to a consideration of the problem of women in industry, in the light of the modern concept of industry as a social institution, with service rather than profit as its fundamental purpose, for, if that concept be accepted, it follows that

the rights and relations of all the parties to industry must be subordinated to the general interest, and, aside from that, it serves at least to show the complex nature of the problem.

The World War further complicated the problem by forcing women into industrial occupations never before undertaken by them. Under the stress of national necessity, it was found that women could do almost any kind of work that man can do. Handicaps theretofore accepted as insurmountable were overcome quickly and easily. Was it a question of clothing: hampering skirts, petticoats, and the like? Then the impedimenta were discarded promptly and the overalls of the male workers were adopted. Was it a matter of inferior physical strength? Then inventive genius came forward with a machine, or a method, that minimized the physical demands made upon the worker. Was it a question of environment: of moral and sex hazards to which, under the old order, common acceptance ruled that women should not be subjected? Then society immediately reared around the women workers a protective wall of sentiment and public opinion that guaranteed them an immunity never before enjoyed by any of their sex. It was found that many occupations had been closed to women for no reason other than tradition or custom, and it was also found that women excelled at tasks at which it had been believed only men could be proficient. Contrary to expectations, it was found that standards of productivity in many instances were raised instead of lowered as a result of the introduction of women workers in industries theretofore reserved to men. This was notably true in England, where low wages and unsatisfactory working conditions had resulted in a deliberate program of restricting production on the part of men

workers. Hence, it may be said that the war-time enlargement of the field of woman's industrial activity had an immediate effect upon industry that was largely if not altogether salutary, while the benefit to the State was instant and almost immeasurable; for none of its essential productive work suffered by reason of the war drain upon its man power. The immediate effect upon the women themselves was also salutary. They gained a sense of economic independence never again to be lost or relinquished. They were able to subsist in comfort during a period when they might have been subjected to extreme privation. They had the satisfaction of contributing directly and materially to the common cause, instead of being forced to the Miltonian comfort, "They also serve who only stand and wait," and they were able to find relief from mental and spiritual strain in physical exertion. Last of all, but by no means least in importance, with many of them economic independence, the earning of more money than they had ever earned before, made possible the gratifying of desires or aspirations theretofore denied or dormant, thus broadening their horizons and enriching their lives.

As to the more remote or ultimate effects of this war-time development the field for conjecture and speculation is without limit, and the event is too near at hand to permit of its proper evaluation. There have been conflicts and dislocations, incident to the replacing of these women workers by men released from war service of one kind or another and free to return to their normal vocations; there have been cases in which the women were reluctant or refused to withdraw from the positions they had taken during the war emergency; there have been men workers who have used economic force, or the threat of it, to compel employers to dis-

charge the women war workers; there have been employers who preferred to retain the women, and there have been other employers who have been quick to take advantage of the opportunity to use the threat of employing women in their bargaining with the men as to rates of pay and conditions of employment. None of this, naturally, has been conducive to tranquillity in the industrial world. It is also to be observed that when the man returned from war service and found a woman in his job, the condition immediately obtained of there being two workers for one job, a condition altogether bad from the labor standpoint and not entirely satisfactory from the standpoint of capital, and one that rendered the return to normal conditions all the more difficult. Even employers most tenacious of the idea that they have a right to purchase labor on a competitive basis do not like to see large numbers of unemployed workers, for they recognize in that a menace to the capitalistic system.

But what of the psychological effect upon women of suddenly realizing a measure of economic freedom and independence never before dreamed of? Will it tend to make marriage and home-making and child-bearing less attractive or wholly unattractive to them? Has it unfitted them for domesticity? Will a woman ever be content to share a wage which she has once commanded in its entirety by and for herself?

What of the psychological effect upon men of knowing that their women are not absolutely dependent upon them? Will the tendency be that they will hold more lightly their marital ties and responsibilities? Will they be more reluctant to ask a woman to share a wage which they know she has earned or could earn?

And what is to be the effect upon society of the eco-

conomic and psychological consequences noted or indicated in the foregoing? Will it lead to the placing of men and women upon an absolute parity in industry? Or, will it point to the conclusion that woman has no right to work unless it be an economic necessity that she do so?

It is impossible, at the present time, to find or to arrive at definite and exact answers to any or all of these questions. Accordingly, in the consideration of the question as to what the industrial code should include, by way of a declaration of the rights of women in industry, we shall proceed to review war-time practises and precedents, to summarize legislation on the subject and to present the more important and more valuable expressions of contemporaneous thought and opinion.

In the proclamation of principles and policies of the National War Labor Board, the declaration with respect to women in industry was as follows:

If it shall become necessary to employ women on work ordinarily performed by men, they must be allowed equal pay for equal work and must not be allotted tasks disproportionate to their strength.

This principle was restated by the Board in many of its awards. In some cases the Board established lower minimum wages for women than were established for men in the same line of work, but it did not thereby consent to the paying of lower wages to women than were to be paid men for the same work. The Board recognized the difficulty, if not the impossibility, of determining exactly whether a woman's work equaled that of a man, except in occupations or tasks where piece-work was possible, and its experience indicated that only where piece-work rates are possible can the

principle of equal pay for equal service be applied rigidly and without the possibility of injustice.

In one case the Board found occasion to declare that colored women should receive pay equal to that received by white women for equal work.*

Two of the most interesting cases considered by the Board grew out of the employment of women as street-car conductors. In the case arising in Detroit, there was a closed shop contract between the company and the union, but there was also an agreement between them whereby there was to be no discrimination against women or colored men if the necessity for their employment should arise, and this agreement was incorporated in the award. Under it, a number of women were employed as conductors, and immediately upon the signing of the armistice the union protested against the retention of the women on the ground that their services were no longer necessary as a war emergency.

The joint-chairmen of the Board, who were the arbitrators in the case, pointed out that it did not involve the general question of the right of women to pursue, as a livelihood, any employment which they might select, but arose under the closed shop restrictions, which the Board, under its principles, during the war, was required to maintain. The joint-chairmen found that it was not necessary for the company to employ any more women as conductors and that no more women, except those that had already qualified for employment, should be taken into its service. The award continued:†

The further issue arises whether we should say to the company, under the contract and circumstances, that it is its duty to discharge the women now in its employ.

* National War Labor Board, Docket No. 233.

† National War Labor Board, Docket No. 444.

We find no such express limitation upon the employment of women in the contract. And we feel that without such express provision equity and fair dealing toward the women who have prepared themselves for this employment, changed their residence in order to meet the requirements of the employment, and who doubtless in many instances have come to be dependent on the income from the employment, require us to hold that no such implication arises from the wording used and that the union must be content with the continued employment of the women.

In the case arising in the city of Cleveland, the company had discharged its women conductors at the demand of the union and appeal was taken to the National War Board in behalf of the women to bring about their reinstatement. The Board reaffirmed the decision in the Detroit case and held that on the basis of that decision the women should be reinstated, there being no limitation on the employment of women in the contract as in the Detroit case.*

Minimum wage rates for women established by the Board ranged from twenty to thirty-five cents per hour.

When we turn to existing legislation affecting women† we find that practically all of it is directed to the fixing or limiting of the number of hours per day or week that women may be employed. Only one State (Kansas) has attempted to regulate the hours of women workers by providing for increased rates of pay for all hours worked in excess of eight in any one day. The Industrial Welfare Commission of that State has ruled that women telephone operators and those employed in manufacturing establishments must be paid at the rate of time and one-half for all hours worked in excess of

*National War Labor Board, Docket No. 491.

†Women's Bureau, Department of Labor, Bulletin No. 5, Oct. 15, 1919.

eight daily. In manufacturing establishments it allows overtime only in cases of emergency, specifying that the weekly hours including the overtime may not exceed fifty-five and must be worked during a six-day week. It further provides for time and one-half for all hours worked in excess of forty-eight weekly by telephone operators.

Eight States (Arizona, California, Colorado, Montana, Nevada, Utah, Washington and Wisconsin); one Territory (Porto Rico), and the District of Columbia, have laws which limit the working day for women in certain occupations to eight hours. California, Utah, the District of Columbia, and Porto Rico not only limit the daily hours of women workers to eight, but also limit their weekly hours to forty-eight. As no overtime is allowed by the laws of California, Utah and the District of Columbia, or any arrangement of hours to make one shorter working day per week, these laws are the most rigid eight-hour laws in the United States. Porto Rico allows one hour overtime daily, but weekly hours cannot exceed forty-eight. The occupations covered by the two States and the District vary somewhat. Manufacturing, mechanical, or mercantile establishments, laundry, hotel, restaurant, telephone or telegraph establishments, express or transportation companies are included in all three of these laws. In addition, California and Utah both include hospitals. Utah includes offices, and California public lodging houses, apartment houses and places of amusement. Both California and Utah except canneries. Porto Rico covers any form of lucrative employment, but this seemingly very inclusive law is seriously limited by excepting stenographers, typists, office assistants, telephone and telegraph operators, nurses and domestics.

Two States (Arizona and Nevada) limit the daily hours of women to eight, but allow them to work fifty-six hours weekly. Nevada makes no provision for overtime; consequently this law permits a seven-day week but only eight hours' labor on any one day. Arizona allows two hours overtime daily, so that either a seven-day week or eight hours' daily labor, or a six-day week of nine and ten hours a day is permitted. Both of these States cover mercantile establishments, laundries, hotels and restaurants. Arizona also includes confectionery stores, bakeries, telephone or telegraph offices, while Nevada includes manufacturing or mechanical establishments, public lodging houses, places of amusement and express or transportation companies. Both States except nurses; Arizona excepts telephone and telegraph offices employing less than four females; Nevada excepts canneries.

Four States (Colorado, Montana, Washington, and Wisconsin) limit the daily hours of women to eight but have no weekly limitations. This means that in the greater number of the occupations covered, a seven-day week, but not a working day lengthened by overtime, would be legal. Colorado and Wisconsin allow no overtime whatever; Montana allows it in retail stores during the week preceding Christmas to the extent of two hours daily; Washington allows it in telephone and telegraph offices in rural communities and cities of less than 3,000 population to make a nine- or ten-hour day. The occupations covered by these laws vary greatly. Colorado, Montana, and Washington include mechanical or mercantile establishments, laundries, hotels and restaurants; Colorado and Montana also include manufacturing establishments; Montana includes telephone and telegraph offices. Wisconsin covers quite a different and much

smaller class of workers: conductors, motormen and flagmen on street-car lines outside first-class cities. Washington alone allows any exceptions to the law, but, as in the case of so many of these laws, canneries are excepted.

Two States (Massachusetts and North Dakota) have laws which limit the working week for women in certain occupations to forty-eight hours, but do not limit the daily hours strictly to eight. North Dakota limits the hours of women workers to eight and one-half in one day and forty-eight in one week. This works out to be a limitation of hours equal to that of any of the States definitely providing an eight-hour day, for no overtime is allowed, and the weekly limitation of forty-eight hours forces any establishment working the daily maximum five days a week to have a shorter work-day on the sixth. The law covers manufacturing, mechanical or mercantile establishments, laundries, hotels, restaurants, telephone or telegraph offices and express or transportation companies. It excepts rural telephone exchanges or those in villages or towns of less than 500 population. Massachusetts limits the hours of women workers to forty-eight in one week, but allows nine hours in any one day. Here, again, is a law that works out to be as strict a limitation of hours as the laws definitely specifying the eight-hour day, for the weekly limit means one very short work-day to compensate for five days of nine hours each. This law includes factories or workshops, manufacturing, mechanical or mercantile establishments, telephone or telegraph offices, express or transportation companies and elevator operators.

Indicative of the demands made in behalf of women workers by the authoritative labor movement we find that, in England, the British Labor Party program calls

for "complete adult suffrage with absolutely equal rights for both sexes," and, "for the complete emancipation of women it affirms the principle of equal pay for equal work on the industrial side and full equality of civic rights with men." In the United States, the reconstruction program of the American Federation of Labor* includes the following:

Women should receive the same pay as men for equal work performed. Women workers must not be permitted to perform tasks disproportionate to their physical strength, or which tend to impair their potential motherhood and prevent the continuation of a nation of strong, healthy, sturdy and intelligent men and women.

Substantially the same declaration as the foregoing was included in the program submitted by the labor group in the first National Industrial Conference, called by President Wilson in October, 1919.

Numerous expressions on this subject by churches and other religious organizations may be cited. From "The Church and Social Reconstruction" by the Federal Council of the Churches of Christ in America, the following is taken:

The importance of the democratic rights of women is not as yet comprehended by public opinion. Their freedom, their right to political and economic equality with men, are fundamental to democracy and to the safety of the future. The church stands also for adequate safeguards to industrial women, for a living wage, the eight-hour day as a maximum requirement, the prohibition of night work, equal pay for equal work, and other standard requirements of industry in which women are engaged.

* U. S. Bureau of Labor Statistics, Labor Review for March, 1919.

The necessity for protective legislation, such as the limiting of hours and the prohibition of night work, is shown by the survey of women's labor in one of the States, submitted to the governor by the Director of the Women in Industry Service of the Federal Department of Labor, which reveals that out of 112 large plants studied, only ten per cent have an eight-hour day, and one-third of the employers or plants worked women as long as sixty-five, seventy-three, seventy-five, eighty-four and eighty-eight hours and forty minutes a week. Five States have as yet no legislation governing the working hours of women.

While taking these positions the church believes that home-making and motherhood will always be the great profession of womankind; and to this end, the church should use its influence to secure for woman in the home economic independence, the control of her own person, and a professional standing in her work equal to that of men in any service which they render.

The National Industrial Conference of Christian Representatives, held under the auspices of the Inter-Church World Movement, adopted the following declaration as to women:

In relation to the industrial status of women, freedom of choice of occupation, the assurance of equal opportunities with men in technical and vocational training, the determination of wages on the basis of occupation and service and not upon the basis of sex, the establishment of healthful conditions of employment and an equal voice with men in the democratic control and management of society.

Following is the pronouncement of the National Catholic War Council:

One of the most important problems of readjustment is that created by the presence in industry of immense

numbers of women who have taken the places of men during the war. Mere justice, to say nothing of chivalry, dictates that these women should not be compelled to suffer any greater loss or inconvenience than is absolutely necessary; for their services to the nation have been second only to the services of the men whose places they were called upon to fill. One general principle is clear: No female worker should remain in any occupation that is harmful to health or morals. Women should disappear as quickly as possible from such tasks as conducting and guarding street-cars, cleaning locomotives, and a great number of other activities for which conditions of life and their physique render them unfit. Another general principle is that the proportion of women in industry ought to be kept within the smallest practical limits. If we have an efficient national employment service, if a goodly number of the returned soldiers and sailors are placed on the land, and if wages and the demand for goods are kept up to the level which is easily obtainable, all female workers who are displaced from tasks that they have been performing only since the beginning of the war, will be able to find suitable employment in other parts of the industrial field, or in those domestic occupations which sorely need their presence. Those women who are engaged at the same tasks as men should receive equal pay for equal amounts and qualities of work.*

The first International Labor Conference under the League of Nations met in Washington from October 29 to November 29, 1919. This conference may be described as a legislative assembly which is to be convened annually under the covenant of the League of Nations, specialized inasmuch as it is called to deal only with labor problems. In its composition, the con-

* National Catholic War Council, Washington, Reconstruction Pamphlet No. 1.

ference is unique as a legislative body. Instead of consisting of delegates or representatives chosen purely on a geographical basis, it is made up of representatives of capital, labor, and the governments. Each country may be represented by four delegates, two chosen by the respective governments, a third chosen by the employers' organizations, and a fourth by the labor organizations of the country. Each delegate may be accompanied by not to exceed ten expert advisers, who have no voting power.

The Washington conference took up the problem of women in industry with especial reference to maternity and to night work, and adopted conventions on both subjects. The convention on the employment of women before and after childbirth was as follows:

Article 3. In any public or private industrial or commercial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed, a woman (a) Shall not be permitted to work during the six weeks following her confinement; (b) Shall have the right to leave her work if she produces a medical certificate stating that her confinement will probably take place within six weeks; (c) Shall, while she is absent from her work in pursuance of paragraphs (a) and (b), be paid benefits sufficient for the full and healthy maintenance of herself and her child, provided either out of public funds or by means of a system of insurance, the exact amount of which shall be determined by the competent authority in each country, and as an additional benefit shall be entitled to free attendance by a doctor or certified midwife. No mistake of the medical adviser in estimating the date of confinement shall preclude a woman from receiving these benefits from the date of the medical certificate up to the date on which the confine-

ment actually takes place; (d) Shall in any case, if she is nursing her child, be allowed half an hour twice a day during her working hours for this purpose.

Article 4. Where a woman is absent from her work in accordance with paragraphs (a) or (b) of Article 3 of this Convention, or remains absent from her work for a longer period as a result of illness medically certified to arise out of pregnancy or confinement and rendering her unfit for work, it shall not be lawful, until her absence shall have exceeded a maximum period to be fixed by the competent authority in each country, for her employer to give her notice of dismissal during such absence, nor to give her notice of dismissal at such a time that the notice would expire during such absence.

The convention, with respect to the employment of women at night, defined night hours as the period between ten o'clock in the evening and five o'clock in the morning and prohibited the employment of women, irrespective of age, during those hours, certain exceptions being allowed, which are of no importance as affecting the principle.

The conference also adopted a recommendation that women be barred from employment in industries where they might be subjected to the dangers of lead-poisoning.

Finally, we come to the recommendation adopted by the second National Industrial Conference called by President Wilson, as follows:*

Women can not enter industry without safeguards additional to those provided for men, if they are to be equally protected. The danger of exploiting their physical and nervous strength with cumulative ill

* Report of Industrial Conference Called by the President, Washington, March 6, 1920, p. 34.

effects upon the next generation is more serious and the results are more harmful to the community. Special provision is needed to keep their hours within reason, to prohibit night employment in factories and workshops, and to exclude them from those trades offering particular dangers to women.

Where women can and do perform work of equal quality and quantity as compared with that of men under similar conditions, they should receive equal pay. They should not be discriminated against in respect to opportunities for training and advancement, or the representation of their interests.

At the present stage of industrial development, and as society is organized to-day, enlightened opinion with respect to women in industry would seem to point to the conclusions: (1) women should not engage in industrial occupations unless it is necessary for them to do so, and (2) where women are so employed they shall not be discriminated against in rates of pay but shall receive equal compensation for equal service; they are entitled to all the rights and prerogatives guaranteed male workers, and the hours and conditions of their employment shall be such as to safeguard their health, conserve their strength, and insure them freedom from economic stress during the period of maternity.

In framing an industrial code, however, it is doubtful whether any restrictions or limitations, express or implied, should be placed on the employment of women in industry. Until it shall have been demonstrated to the contrary, it should be assumed that women do not and will not seek industrial occupations except under the pressure of economic or other necessity, and, therefore, the code should protect them in the right to engage in such employment. Otherwise, they might be subjected

to discriminations wholly unfair and wholly obnoxious.

Accordingly, the following declaration is suggested for the proposed industrial code:

The right of women to engage in industrial occupations is affirmed; their rates of pay shall be the same as those of male workers for the same or equivalent service performed; they shall be accorded all the rights and guaranties granted to male workers and the conditions of their employment shall surround them with every safeguard of their health and strength and guarantee them the full measure of protection which is the debt of society to mothers and to potential mothers.

CHAPTER XII

CONTROL OF INDUSTRY—OBSERVANCE OF CONTRACTUAL OBLIGATIONS—PROTECTION OF THE PUBLIC INTEREST AND WELFARE

We have discussed in detail what may be termed the primary principles of the proposed industrial code and we come now to the secondary principles: to the declarations (if any) that should be made with respect (1) to the right of labor to a voice in the control of industry; (2) to the obligation of both capital and labor to fulfil contractual undertakings; and (3) to the right of the public (organized society) to be protected against interruptions in basic industries and public utilities resulting from industrial controversies.

It will be contended in some quarters that the declaration of these secondary principles is not necessary—that the establishment of the primary or fundamental principles with respect to the right to organize, collective bargaining, the living wage, the eight-hour day, and the rights and relations of women in industry will result almost automatically in such generally acceptable practices and procedure, that all controversy as to the secondary principles will be eliminated—and there is weight to this contention. By way of illustration, it may be pointed out that collective bargaining now gives labor more or less a voice in the control of industry, and it may be laid down as an academic dictum that collective bargaining will give labor all the voice in the control of industry to which it is entitled under a capitalistic form of society. Where there is complete observance and intelligent application of the principle of collective

bargaining, labor has a voice in determining wage rates, and hours, and other conditions of employment, in the disciplining of workers, in the employing or discharging of workers, in the selecting of foremen, in establishing production standards, and the like. This may be said to give labor a voice in the control of the operation of industry only, but when it is coupled up with bonus and profit-sharing plans it is quite possible that the employees may be given a voice in fixing the prices at which the plant's products are to be sold, and even that they may be given representation on the directorate of the company. Certain it is, in any event, that in the establishment or in the industry, where the relations between employer and employed are adjusted and carried on in good faith in strict adherence to the five primary principles heretofore enumerated, there is little likelihood that a controversy will arise over labor's voice in the control of industry, that either side will violate its contractual agreements, or that there will be interruptions in the industry jeopardizing the public interest.

In this connection, it may be of interest to examine in some detail the practical application of a system of collective bargaining in a specific establishment. This system did not spring into existence, full-blown, but was the product of months of experience, study, and cooperative effort on the part of management and employees. As it stands to-day, there is an elaborate shop committee system, with a *liaison* officer in the person of an employee, elected by the other employees, who has a desk in the company's offices and gives his entire time to administrative work in carrying out the details of collective bargaining; he is paid by the company at the rate of his maximum earnings as a worker, and is subject to the recall if the workers are not satisfied

with him. Wage rates are fixed annually, and the basic minimum rates are identical with the union scale in the industry. These wages are supplemented by an elaborate system of bonuses or premiums. First, there is the service bonus of five cents a day for every year the worker has been in the employ of the company; second is the attendance bonus; and third, the punctuality bonus. Then there is a premium for perfect work (work conforming to an agreed standard), a performance premium (for accomplishing an agreed task) with an additional premium for production in excess of the agreed task, and a share in the profits of the company on an agreed basis. All these bonuses or premiums, except the last, are computed and paid every pay-day. The matter of disciplining employees is left to a duly constituted committee of the workers, and all "hiring and firing" must also be approved by a committee of the workers. Every employee is assured of immediate action on any grievance, however trivial. All welfare and educational work, amusements, medical attendance, insurance, and the like, are established on a mutual basis, the employees bearing one-half of the expense. Every encouragement is offered for the development of ideas that will increase the productive efficiency of the individual or of the plant.

As a result, in this establishment the labor turnover has been reduced to the minimum, while efficiency and production are constantly at the approximate maximum. The workers are satisfied and happy, and respond cheerfully to all "speeding up" requirements of emergency or seasonal production. This establishment is not conducted either as an experimental station or as a philanthropic institution. It is conducted for profit. The management has found it profitable—good business—

to cooperate with the workers on the basis outlined.

Strange as it may seem, this establishment, instead of being regarded as a model, is looked upon rather as a pariah in the industry. The policy of the management is frowned upon by the management of other plants, and there is no place for the company in the association of other companies in the industry for the reason that the other companies will not conform to its policy, and it will not place itself in a position to be required to conform to policies approved by the other companies. On the other hand, the trade-unions in this industry have not been able, since the new system was inaugurated, to get a foothold in this establishment. The workers, while entirely free to decide to unionize the plant, elected not to do so and to work out collective bargaining through the shop committees. No reason was assigned for this, but obviously the consideration was a selfish one. The workers did not want to place themselves in a position where they might be called out on a sympathetic strike, and they were convinced that they would never have occasion to strike in their own plant. They are said to feel that they are assured continuous employment under satisfactory conditions with maximum earnings, and with that they are content. This spirit may not be admirable or commendable from the standpoint of labor as a whole, and it can be understood why other employers in this industry are not friendly toward the management of this particular establishment. However, until unselfishness is a more universally practised virtue, the impartial student of industrial problems will be sympathetic toward both management and workers in this establishment.*

* The name of this establishment is withheld because both management and workers prefer not to have attention centered on them and their affairs.

It is, of course, impossible; but as a matter of speculation, if the basic industries—if all industry—could be organized and conducted as this establishment is organized and conducted, it would seem that the problem of industrial relations would be solved. Under such a system, for example, it is almost inconceivable that there could be a strike in the coal industry, or in the transportation industry, that would jeopardize the public welfare—the kind of an industrial dislocation that is immediately felt and that directs general attention to the labor problem most quickly.

In this establishment, the underlying principles of the proposed industrial code are applied and observed. That this is done without the explicit definition of and agreement upon those principles serves only to demonstrate their efficacy and to emphasize the importance of having them explicitly defined and agreed upon for all industry. Here the code is practised, and there is peace, contentment, efficiency, accelerated production, adequate service to society and a fair return both to employer and to employed. Here is genuine democracy in industry; there is nothing revolutionary in what is being done, or in the method by which it was brought about; capitalism still prevails. What, in the name of reason, should prevent the extension of the benefits of such a system throughout all industry by the establishment of an industrial code?

In current discussion of industrial problems much is heard of the irresponsibility of labor, and great emphasis is laid on the importance of devising some means of holding labor to its contractual agreements. It is pointed out that an employer may enter into a contract with his employees, with specified wage-rates and conditions of employment, for a specified period of time, and

that such a contract is enforceable against the employer, but it is not enforceable against the employees. The employer may have sold, or contracted to sell, his product at a price based on a labor cost contemplated in his agreement with his employees, and he may have committed himself to deliveries on the reasonable presumption that he would have uninterrupted production, and then his employees may strike or threaten to strike for increased wage-rates, or what not, and there is no way by which he can hold them to their agreement with him. That is all very true.

However, before proceeding to discuss what is to be done about it, fairness demands that it be pointed out that the instances in which labor, as such, violates its contractual undertakings are extremely rare. The experience and observation of some years lead to the conclusion that labor keeps its agreements quite as well as capital does, and vice versa, and that neither element in industry has a monopoly of honor and good faith. Nothing is heard of the many agreements that are maintained rigidly and faithfully, but if one is broken the public is not permitted to fail to hear of it. Moreover, attention should be directed to the fact that, not infrequently, industrial disturbances arise that are not the fault either of employer or employed, but are to be attributed to superintendents, managers, and other salaried agents of the employer, who, over-zealous in their efforts to "make good" in their positions, pursue tactics in dealing with labor that would not be sanctioned by the employer if the latter were informed of them in advance. Thus, breaches of agreements are provoked for which labor blames the employer and the employer blames labor, whereas in fact neither really is responsible.

The cure for the ill of contract breaking, most com-

monly suggested from the employers' side, is legislation requiring the incorporation of all labor-unions. This would make it possible for an employer to go into court in a proceeding to hold a union financially responsible for damages resulting from the violation of a contract, or to restrain a union from breaking a contract. Incorporation has been resisted bitterly by the unions, and doubtless will continue to be resisted. Labor leaders have always been fearful, not to say suspicious, of the courts, feeling that judges as a rule are inclined to be sympathetic with capital, if they are not actually dominated by capital, and they argue that incorporation would be nothing more or less than a weapon for the destruction of unionism. By no means the least of the dangers they see in it is in the possibility of dissensions and troubles within the ranks of labor, with the dissatisfied or recalcitrant element rushing into court with actions that would prevent the normal functioning of the unions, if not completely disrupting them.

In the past, efforts to procure legislation for the incorporation of labor-unions have failed, and, moreover, labor-unions and farmers' associations invariably have been specifically exempted from the application of anti-trust and other laws of that character. Probably there has been politics in this, as well as a purpose to do justice, but the fact remains, and it is indicative of what may be expected of legislative bodies in the future.

If the principle of trade-unionism were generally accepted—if all employers stood for the closed union shop—it is probable that labor leaders would be inclined to assent to measures, legislative or by agreement, aimed to bring about a more strict adherence to contractual agreements. They would no longer have any reason to fear that anything would or could be done to jeopardize

the existence and growth of the unions, and it is unthinkable that they would not concede that they owed something in return for the establishment of the trade-unionism principle. Thus, legislation might be brought about similar to that in Australia, where employers and employees can approach the Arbitration Court only through their organizations, and unionism is made highly desirable, if not compulsory. Another possible law would be one requiring employees, who desired to avail themselves of the right of collective bargaining, to register as members of a union or duly organized shop committee, their rights under such registration to be abridged or forfeited in event of the violation of any agreement entered into by them, such agreement having been duly recorded and given the force of an award.

Failing any and all legislation on the subject, the desired end might be attained through agreement. One such agreement that is suggested is a "trade" between the employer and employees whereby, in return for recognizing the union and establishing the closed union shop, the employer is given a surety bond by the union, indemnifying him against violations by the union of its contract. To the objection that the union can not control all its members and might be mulcted of damages caused by its irresponsible membership, it may be urged that, if workers expect or hope to enjoy the benefits and advantages of organization, they must be disciplined and responsive to the common interest. Leaders of the labor movement cannot be unmindful of the fact that every right claimed or established for the worker carries with it a corresponding obligation. The right of the living wage, and of the shorter work-day, carries with it the obligation on the part of the worker to work faithfully and efficiently, returning a full measure of productive

effort. The right to organize, to bargain collectively, and thereby to have a voice in the control of industry, carries with it the obligation to deal in good faith, to observe strictly all contractual undertakings, and to contribute in every way possible to the continuous and effective operation of industry. Labor has long complained that industry has been a one-sided affair, with all the power and advantage accruing to capital and with the worker constantly exploited and deprived of all or part of his economic rights, but to correct this evil, if it be an evil, it will not suffice to establish another one-sided relation wherein labor has all the power and advantage and no responsibility.

And the obligations of labor are by no means limited to what it owes to capital. All the gains that have been made for labor in the way of higher wages, shorter hours, improved working conditions, and recognition as a coordinate factor in industry have been due in part to organization and the exercise of economic force by labor itself, but more largely to enlightened and aroused public opinion, and these gains have been recorded in legislation or in the establishment of standards by common acceptance. Therein, we have indicated something of labor's obligation to organized society. Labor has never won a battle where it has not had public opinion on its side; labor has never lost a battle except when it has failed to inform the public as to the merit of its cause, or when its cause has failed of public acceptance as meritorious.

Organized society has a right to expect that all industry shall be carried forward in an orderly manner without interruption, for it is through organized society that individual rights and property rights are guaranteed and guarded and that the opportunities of industry are

afforded. It follows that neither capital nor labor may be unmindful of this right and that both must be amenable to society for offenses against it.

Thus, we come to a subject of which much is heard in current discussion and which is covered by one of the secondary principles of the industrial code: the right of the public to be protected against interruptions incident to labor controversies in the public service or in the so-called basic industries immediately affecting the public welfare. The term public service, as here used, would include all activities of government—federal, state, and municipal—in which workers are employed; the term basic industries would include transportation and all other public utilities, fuel, food and clothing.

There can be no denial of the preponderance of the public interest in labor controversies in the fields mentioned. A street-car strike may subject the entire population of a city to untold annoyances, inconveniences, and business loss; a general railroad strike would paralyze all industry and speedily subject the large urban centers to famine; a strike of policemen or of firemen would leave a community helpless against lawlessness or the ravages of fire; a strike of coal miners might lead to the enforced closing down of transportation and all public utilities and of factories dependent upon coal for fuel, and subject the general public to the miseries of a fuel famine. The barest reference, indeed, to these contingencies suffices for a comprehensive understanding of the problem.

Public attention was directed to this subject especially by events during the war period, immediately following thereafter, and more recently by the threatened railroad strike of October, 1921. During the late summer of 1918, the firemen of the city of Pittsburgh, failing of

consideration of or action upon their demands for increased pay, went on strike and for twelve hours that great industrial center, where war production was at its height, was without fire protection save that provided by a hastily mobilized volunteer service. Later, the policemen of the city of Boston went on strike, and left that city at the mercy of the lawless element for a like or longer period. Still later, came the strike in the steel industry, followed by the strike of the bituminous-coal miners and the unauthorized strikes of thousands of railroad employees.

There was some sympathy with the strikers in each of these cases, and that there was at least a certain measure of justification for each strike is patent to any one acquainted with the facts, or who will familiarize himself therewith. However, the general public, alarmed and inconvenienced, and threatened with what not losses and suffering, did not pause to inquire into the merits of these controversies, but unhesitatingly condemned the strikes and the strikers. Immediately there was a demand for drastic legislation to make such strikes illegal, and in one State (Kansas) this demand resulted in such legislation in the act creating the Kansas Court of Industrial Relations.

Now, in the discussion of such strikes, and the problems growing out of them, far too much attention has been directed to the question as to whether the strikers were right or wrong, or whether such strikes are ever justified. Such debate may be informing, but it is not directly to the point at issue. Admitting that such strikes are inimical to the public welfare, and that they should not take place, the question of immediate moment is how to prevent them, or how they may be avoided. Shall they be made illegal, or shall other measures for

dealing with them be devised; other remedies invoked?

In addressing ourselves to the consideration of this question one fundamental fact must be stated with all possible emphasis. It is this: In a free society it is impossible to compel a man to work for a wage that is not acceptable to him, or under conditions that are not satisfactory to him. This is as axiomatic as the homely metaphor, "You can drive a horse to water, but you can't make him drink." Here we have the inherent weakness of any and all laws that would make strikes illegal. They may be righteous laws, and they may be constitutional, but they are not enforceable. If a worker may not strike without violating the law, then it follows that he must continue at work, but putting him in jail for violating the law does not make him work, nor does keeping him on the job under an armed guard give any promise of securing from him his normal productive efficiency. Moreover, all laws prohibiting strikes must recognize the right of the individual worker to quit his employment at any time he chooses, and, so long as the individual has that right, any number of individuals may exercise it simultaneously and there is all the effect of a strike, although a strike may be disavowed. "They can't put you in jail for that," says the lawyer to his immured client. "Can't they?" rejoins the client, "but I'm in jail!" "You can't strike," says the Law to the workers. "Can't we?" the workers make answer. "Anyhow, we're not working!" Take a hypothetical case in which a strike of railroad employees had been made illegal and some two millions of railway workers elected to go on strike in spite of the law. As a practical proposition, what could be done about it? There are not jails enough in the country to hold so many law violators, if anyone desired to have them jailed, and the entire

standing army, combined with the marines and the navy, could not guard them if they were so jailed. Punishing and making examples of a few leaders would not remedy the situation, and the net result would be that the power of the government had been rendered abortive and that the wheels of transportation would not turn until the workers were willing that they should turn. Surely such a *contretemps* is not a pleasant one to contemplate, even hypothetically!

The thing that is to be desired above all things else is labor that is efficient, in the public service, as well as in every line of industry. Labor to be efficient must be contented, and labor to be contented must be free. This has been demonstrated by experience wherever the authority of the State has been invoked to prevent or to settle industrial disturbances. Anti-strike laws and compulsory arbitration unquestionably have a restraining influence and effect, and in the absence of anything better they may be vindicated, but they will not do away entirely with dislocations that impair the efficiency and productivity of industry, even if they do not break it down completely.

There is another aspect of the problem that must not escape consideration. Reverting to the concept of industry as a social institution, it must be admitted that every industry produces something that is used by or is useful to organized society, and that society contributes something to every industry, however small or relatively insignificant the industry may be. Accordingly, if society has a right to be protected against interruptions in one industry, it has a right to be protected against interruptions in any and all industries, and, therefore, if strikes are to be made illegal in any industry they should be made illegal in all industries. The practical applica-

tion of this reasoning may not be as feasible as the reasoning is sound, but the logic is unescapable and may well be cited as an argument by those who doubt the wisdom of attempting to solve the problem by legislation of the character described.

In fact, in considering this as well as other phases of the labor problem, experience and sound thinking point to the conclusion that the fewer punitive laws we have the better. This conclusion could not be urged if there were no other way out—if, laws failing of efficacy, society had nothing else upon which to rely—but there is another way out. The solution is at hand in the establishment of the fundamental principles of the industrial code, in the education of employer and employed, and of the public as well, as to the full meaning and purview of those principles, and in the creation of the machinery essential to their application under all contingencies. This machinery would consist of tribunals to which capital and labor would have recourse when they failed of agreement between themselves, and which would have the additional function of informing the public as to the exact facts in a given industrial situation or controversy. This latter function would be the means of arousing and directing an intelligent and militant public opinion against which neither capital nor labor would have the audacity to contend, and which would have all the weight and effectiveness of law without its tedious, devious and time-wasting processes.

It will, perhaps, make for better comprehension of this plan if it is discussed in some detail in its practical application to a specific labor controversy. For this purpose we shall take the strike of the bituminous coal miners in November, 1919, for this controversy included all the features of a violation of at least one of the

fundamental principles of the proposed industrial code, as well as the breaking of a contractual agreement between employer and employed and the invasion of the public rights through the closing down of a basic industry. Also, in the effort to settle this controversy, there were wholesale arrests of union leaders for alleged violation of a war-time law under which the strike might be held illegal, recourse was had to what amounted to compulsory arbitration, and public opinion was a powerful factor. It is thus an extremely interesting case, both from the viewpoint of what actually happened and from the speculative, experimental viewpoint.

When the bituminous-coal miners went on strike on November 1, 1919, the general public's knowledge of the situation was limited to a few outstanding facts: First, the strike was in violation of a contract that had yet some months to run; second, the miners were asking a sixty per cent increase in wages and a six-hour day, five-day week; third, the coal strike would aggravate the serious industrial situation due to the strike in the steel industry; and, fourth, the country was facing winter with an immediate and serious fuel shortage. The reaction of the public was instantaneous. It did not approve of breaking contracts, it was shocked at a demand for so large an increase in wages when the war was over and prices and wages should be coming down instead of sky-rocketing, it was amazed that any group of workers had the effrontery to ask for so short a work-day and so short a work-week; it was worried over the general business outlook, and it was horrified at the prospect of cold weather with little coal at outrageously high prices or no coal at any price.

In the circumstances, it was not surprising that the public could see no merit in the miners' cause, and that

a hue and cry was raised immediately for drastic action by the government to cope with the situation. The war-time Fuel Administration, which had been dissolved, was rehabilitated to regulate the prices and distribution of coal, officials and leaders of the miners were arrested for alleged violation of the Lever Act, the union was enjoined from using its funds to carry on the strike, under pressure of public opinion and the federal authorities, the operators and miners were forced to agree to arbitrate their differences. President Wilson appointed an arbitration commission, the strike was called off, but the miners did not return to work promptly, and the State of Kansas undertook State control and operation of its mines and later enacted the radical Court of Industrial Relations Act.

The arbitration commission, after prolonged hearings and deliberations, rendered its award. The Fuel Administrator had said that the miners should receive a wage increase of not to exceed fourteen per cent. The Secretary of Labor had recommended an increase of thirty-one per cent. The miners had asked for sixty per cent. The commission awarded an increase of twenty-seven per cent. No change was made in working hours. Some time after the award was handed down it was found necessary to reopen the case and make adjustments to cure inequalities as to certain groups of mine labor in certain fields, and, all in all, it may be said that production in the bituminous coal industry was unsettled—anything but normal—for a period of from eight to ten months. The wage increase added about forty cents a ton to the cost of producing coal, but the price to the consumer was increased from five to ten times that amount the moment the fixed prices of the Fuel Administration were withdrawn.

On the whole, the public was the only loser as a result of this amazing demonstration of how NOT to deal with an industrial controversy. The miners received a substantial wage increase; the operators made more money through the increased price of coal. The public suffered untold inconvenience and paid a staggering and unnecessary addition to its coal bill.

It might be possible to fix the responsibility for this disastrous affair and its outcome, but that would be a thankless task and of little value. It is more profitable to enquire as to what might have happened had the fundamental principles of the industrial code been established, together with a national tribunal for adjusting such controversies once they got beyond settlement by agreement.

In the first place, there is every reason to believe that in those circumstances the strike would never have occurred. With a proper tribunal in existence, operating under fixed and accepted principles that guaranteed justice and fair dealing to the miners, to the operators and to the public, public opinion and pressure from governmental authorities would have forced the miners and operators to agree to arbitration without hazarding a shutdown of the industry. Arbitration was forced after the strike had taken place and all the bitterness of a struggle to the death had been engendered, and when it was necessary to create a tribunal to handle the case. How much easier it would have been to have effected a settlement in this manner before even a strike vote had been taken by the miners, if only the basis and the machinery of adjustment had been available.

In the second place, such a national tribunal, armed with inquisitorial powers, would have been conducting an investigation of the controversy from its inception,

and the public would have been informed as to the exact facts and all the facts in the situation. In that event, the public would have learned that the miners had been working for two years, during the period of constant and rapid advances in the cost of living, without a wage increase and at a wage wholly inadequate to meet the cost of living. It would have learned that this state of affairs was due to the fact that when the wage scale was fixed in October, 1917, the agreement was made that the contract should run for the period of the war, or not later than April 1, 1920, and that the miners were being held to this agreement on the technicality that while the armistice had been signed November 11, 1918, and active hostilities had ceased on that date, the war would not be over, legally, until peace had been proclaimed officially. It would have learned that the National War Labor Board had laid down the rule that neither party to such a contract could be held to it if changing conditions had made the terms of the contract manifestly unjust, and that an inadequate wage resulting from changing conditions was sufficient cause for abrogating such a contract.

The public would also have learned that the wage agreement of 1917 was predicated upon governmentally fixed prices for coal, and that not only had government prices been withdrawn, but the whole machinery of the Fuel Administration had been "scrapped." The National War Labor Board had also passed out of existence and there was no governmental agency in existence to which the miners could appeal for a consideration of their grievances. With the operators refusing to negotiate a new wage scale and declining to arbitrate, the only avenue of relief left open to the miners was to resort to economic force and precipitate a strike. The further

information would have been made available, too, that the miners' demand for a six-hour day, five-day week, was a constructive proposal aimed to solve the problem of irregularity of employment in the mining industry, and that such an experiment had been tried successfully in England.

The fundamental principles of the industrial code having been established, the public would have known that a living wage could not, in justice, be withheld from the miners because they had entered into a contract, the terms of which had been rendered unjust by changing conditions, and that under the principle of collective bargaining recourse should be had to arbitration when negotiation failed, the machinery for such arbitration being already in existence and functioning.

Based upon all this information and knowledge, the public opinion that would have been created relative to the controversy between the miners and the operators would have been enlightened, essentially fair, and absolutely intolerant of any selfish action either by the miners or the operators. There would have been no strike. It would have been prohibited, not by law, but by a power more potent than law: the power that places laws on the statutes, that repeals them, or that renders them dead letters. There would have been arbitration. It would have been compulsory arbitration, not by legal mandate, but by the mandate of that intangible yet living force, the will of the people. In the end the miners would have received a wage increase that approximated justice, there would have been no interruptions of or dislocations in industry, there would have been no coal shortage, real, threatened, or imaginary, and the coal bill of the nation would have been increased only by so much as was necessitated by the increased cost of production.

Nothing could condemn the method of handling the bituminous coal controversy more unanswerably than the mere recital of what actually happened. The miners asked a wage increase on the basis of the living wage, and it was denied them; they went on strike, and they got an increase, which the commission that gave it to them said was based on the living wage principle. The miners asked for arbitration, which is an essential part of collective bargaining when settlement of a controversy cannot be reached by agreement, and it was denied them; they went on strike, and they got arbitration.

Manifestly, if the miners were entitled to a wage increase *after the strike*, they were entitled to an increase *before the strike*; if arbitration was a desirable and wise means of adjustment *after the strike*, it was even more desirable and infinitely more a measure of wisdom *before the strike*.

It is equally obvious that if governmental interference was justified to *settle* the strike after it had occurred, it would have been even more justified as a method of *preventing* the strike.

Viewed from any angle, this controversy—its genesis, its basis, and its outcome—is a concrete argument for the establishment of the industrial code. It may also be said that it shows that it is not necessary to incorporate in the code declarations on what have been designated as the secondary principles; given the primary principles, it is doubtful if issues will ever arise necessitating specific pronouncements on the secondary issues. However, that is essentially a matter to be determined in the light of experience, once the first and all important step has been taken.

The case for the industrial code has been stated. Its application has been illustrated. Its establishment is

simple. The Congress of the United States has but to define and to proclaim the fundamental principles as the determining bases upon which relations in all industry are to be adopted, and to create a commission, court, or some such tribunal, whose functions and powers shall be both inquisitorial and judicial and whose final responsibility shall be the maintenance of peace in industry. This proposal is not advanced in behalf of labor, or in behalf of capital, but in the interest of both and for the good of the entire body politic. It is not radical, nor is it an entering wedge for more radical innovations. On the contrary, it may well prove to be the Gibraltar of defense against radicalism and the machinations of extremists. It has been shown that the fundamental principles of the proposed code have the sanction of enlightened, progressive, world opinion, and the experience of the National War Labor Board has demonstrated that fair dealing and peace in industry, together with stabilized and accelerated production, may be attained or approximated through the application of such principles. No such sanctions of opinion or of experience may be adduced in support of proposals looking to anti-strike, compulsory arbitration and like drastic legislation, while the existing industrial situation is sufficient indictment of a do-nothing policy.

To establish the code will not widen the breach between capital and labor or intensify class prejudices and bitterness; other proposed remedies, it is to be feared, will have a tendency in that direction.

To establish the code is not to experiment; it is to set in motion known processes that will attain known results.

To establish the code is to conform to precedents dating from the Decalogue and exemplified in the Declara-

tion of Independence. Once established, it will never be repealed or abridged, and America will have reared another imperishable monument to the progress of mankind.

CHAPTER XIII

THE POSTWAR DEVELOPMENT OF A CODE

Immediately after the signing of the armistice and before subsequent events had produced industrial friction and impaired the spirit of cooperation between capital and labor which had developed during the war, there was considerable sentiment in favor of extending war-time principles for the regulation of industrial relations and conditions into the period of reconstruction at least, and, in some quarters there was a strong movement for working out a fundamental code for the permanent guidance of industry in the future. As early as January 11, 1919, President Wilson, who was then in Paris at the Peace Conference, in a cablegram to the National War Labor Board, asking it to take jurisdiction in the New York Harbor strike, said:

I earnestly request that you take up this case again and proceed to make a finding. I appreciate the honesty and sincerity of the Board in announcing, on Wednesday, that it could not promise a final decision in the controversy without a formal submission from all parties, but I am sure that the War and Navy Departments, the Shipping Board and Railroad Administration and any other governmental agencies interested in the controversy will use all the power which they possess to make your finding effective, and I also believe that private boat-owners will feel constrained by every consideration of patriotism in the present emergency to accept any recommendation which your board may make. Although the National War Labor Board, up to the signing of the armistice, was con-

cerned solely with the prevention of stoppage of war work and the maintenance of production of materials essential to the conduct of the war, I take this opportunity also of saying that it is my earnest hope that in the present period of industrial transition arising from the war the Board should use all means within its power to stabilize conditions and prevent industrial dislocation and warfare.

Among leaders of both employers and employees at that time, there was a strong belief that measures should be taken, by industrial conference and agreement, to profit by the lessons of the war and to establish an industrial constitution, so to speak, or a code or series of principles modeled after the principles of the National War Labor Board which should be mandatory upon agencies for the judicial settlement of labor disputes. This conviction was not confined to the United States, but extended to all commercial and industrial nations, as is evidenced by the so-called Labor Provisions of the Treaty of Versailles. The pronouncements made in the Treaty of Peace, as to the principles which should govern the signatories towards labor conditions and problems, were as follows:

Article 427. The high contracting parties, recognizing that the well-being, physical, moral, and intellectual, of industrial wage-earners is of supreme international importance, have framed, in order to further this great end, the permanent machinery provided for in Section I and associated with that of the League of Nations.

They recognize that differences of climate, habits, and customs, of economic opportunity and industrial tradition, make strict uniformity in the conditions of labor difficult of immediate attainment. But, holding, as they do, that labor should not be regarded merely as an article of commerce, they think that there are

methods and principles for regulating labor conditions which all industrial communities should endeavor to apply, so far as their special circumstances will permit.

Among these methods and principles, the following seem to the high contracting parties to be of special and urgent importance:

First. The guiding principle above enunciated that labor should not be regarded merely as a commodity or article of commerce.

Second. The right of association for all lawful purposes by the employed as well as the employers.

Third. The payment to the employed of a wage adequate to maintain a reasonable standard of life as this is understood in their time and country.

Fourth. The adoption of an eight-hour day or a forty-eight-hour week as the standard to be aimed at where it has not already been attained.

Fifth. The adoption of a weekly rest of at least twenty-four hours, which should include Sunday whenever practicable.

Sixth. The abolition of child labor and the imposition of such limitations on the labor of young persons as shall permit the continuation of their education and assure their proper physical development.

Seventh. The principle that men and women should receive equal remuneration for work of equal value.

Eighth. The standard set by law in each country with respect to the conditions of labor should have due regard to the equitable economic treatment of all workers lawfully resident therein.

Ninth. Each state should make provision for a system of inspection in which women should take part, in order to insure the enforcement of the laws and regulations for the protection of the employed.

Without claiming that these methods and principles are either complete or final, the high contracting parties are of opinion that they are well fitted to guide the

policy of the League of Nations; and that, if adopted by the industrial communities who are members of the League, and safeguarded in practise by an adequate system of such inspection, they will confer lasting benefits upon the wage-earners of the world.

Had a general industrial conference been called shortly after the armistice, there can be small doubt that it would have been successful in working out a basis of procedure in conformity with these principles. As it was, the pressure of other matters intervened, industrial warfare developed, and when the attempt was made, it was too late.

Such was not the case, however, in other commercial and industrial nations. In order to secure an acceptance and interpretation of fundamental principles, and to obtain a basis of understanding upon which industry could proceed to operate without interference and at its maximum capacity, the practical plan was adopted of calling together, under governmental auspices, of conferences or congresses of representatives of capital and labor. The first precedent in this direction was established by the Prime Minister of Great Britain.

As early as February 15, 1919, Premier Lloyd George made the announcement that the Government would convene a national industrial conference of employers and employees for the purpose of discussing the general labor situation and for ascertaining the basic causes of industrial unrest. On February 18, through the Minister of Labor, Sir Robert Horne, invitations were issued to the large employers' associations and trade-unions of the country, to send delegates to a conference in Central Hall, Westminster, on the morning of February 27. On the day set 800 delegates assembled as the National Industrial Conference, 500 representing employees and

300 representing employers. The meeting was presided over by the Minister of Labor, and was addressed by the Premier.

The real accomplishment of the conference was the appointment of a joint subcommittee of sixty, or thirty on each side, to consider the industrial situation with instructions to work out an immediately practical plan to allay labor unrest, and to recommend also a permanent constructive program. It was specifically authorized to consider:

1. Questions relating to Hours, Wages and General Conditions of Employment.
2. Unemployment and its prevention.
3. The best method of promoting Cooperation between Capital and Labor.

It was empowered to work through subcommittees and to make its report to the Conference not later than April 5, 1919. An impartial chairman was designated by the Government in the person of Sir Thomas Monro. An attempt was made to place five women on the labor section of the committee, but it was voted down by the men on the ground that the trade-union strength of women did not warrant so large a representation, but to safeguard women's interests two women were added to the committee without being permitted to vote. The general Conference then adjourned to await the report of the joint-committee.

The National Industrial Conference reconvened, according to program, on April 4th, to consider the report of the joint subcommittee. The recommendations of the committee were presented by the chairman, Sir Thomas Monro, and may be briefly summarized in part as follows:

I. *Hours*

- a. The establishment by legal enactment of a maximum working week of forty-eight hours, subject to varying the normal hours in proper cases, with adequate safeguards.
- b. Agreements between employers and trade-unions as to hours of work to be applied to the entire trade or industry concerned.
- c. Systematic overtime to be discouraged, and unavoidable overtime to be paid for at special rates, with time and a quarter as the minimum rate.

II. *Wages*

- a. The establishment by legal enactment of minimum time-rates of wages, to be of universal applicability.
- b. A Commission to report within three months as to what these minimum rates should be.
- c. Minimum time-rates agreements between employers and trade-unions to be capable of application to all employers engaged in the trade falling within the scope of the agreement.

III. *Recognition of, and Negotiations Between, Organizations of Employers and Employees*

- a. Basis of negotiation between employers and workers should be full and frank acceptance of employers' organizations and trade-unions as the recognized organizations to speak and act on behalf of their members.
- b. Members should accept the jurisdiction of their respective organizations.

IV. *National Industrial Council*

- a. A permanent National Industrial Council should be established to consider and advise the Government on national industrial questions.
- b. It should consist of 400 members, 200 elected by

- employers' organizations, and 200 by trade-unions.
- c. The Minister of Labor should be President of the Council.
 - d. There should be a Standing Committee of the Council numbering fifty members, and consisting of twenty-five members elected by and from the employers' representatives, and twenty-five by and from the trade-union representatives, in the Council.
 - e. This Council should not supersede any of the existing agencies for dealing with industrial questions. Its object would be to supplement and coordinate the existing sectional machinery by bringing together the knowledge and experience of all sections and focusing them upon the problems that affect industrial relations as a whole. Its functions, therefore, would be advisory. Among its more specific objects will be:
 1. The consideration of general questions affecting industrial relations.
 2. The consideration of measures for joint or several action to anticipate and avoid threatened disputes.
 3. The consideration of actual disputes involving general questions.
 4. The consideration of legislative proposals affecting industrial relations.
 5. To advise the Government on industrial questions and on the general industrial situation.
 6. To issue statements for the guidance of public opinion on industrial issues.

Elaborate recommendations were also made in connection with the unemployment problem and other mat-

ters which, important in themselves, are not significant in the present connection. The report, as a whole, was favorably received by the Conference. Both sides, or the delegates of employers' and trade-union organizations, after considering the recommendations separately, reported a unanimous decision in favor of the full report by the joint subcommittee. The Conference, however, demanded a governmental acceptance of the report before it would refer the report to the trade-unions and associations of employers for their sanction. Up to the present time no final action on the report of the Conference has been taken by the British Government, altho certain specific proposals of the Conference, such as the eight-hour day and the minimum wage, have been before Parliament as Government measures.

The British precedent as to an industrial conference was soon followed by similar action in Canada. The Canadian Royal Commission on Industrial Relations, whose report was filed on June 29, 1919, recommended the calling of a national conference of employers and employees to discuss with the premiers of the Provinces and of the Federation the principles underlying industrial relations with a view to their enactment into law. In accordance with this recommendation, the Dominion Government, through the Minister of Labor, called an industrial conference to meet in Ottawa during the week of September 15 to 20, 1919, to consider the subjects of industrial relations, labor legislation, and the labor features of the Treaty of Peace.

In the formation of the Conference, an innovation was made in Canada. Representatives of the public were invited, were placed on committees, and took part in the discussions, but were not permitted to vote. Altogether, the Conference was composed of 194 delegates, 77

each representing the trade-unions and employers, and 40 the general public. There were also representatives present of commercial and industrial interests of the United States, and of the international labor organizations with headquarters in the United States.

Primarily the Conference met to discuss and take appropriate action on the recommendations of the Royal Commission on Industrial Relations. The program which had been prepared, and which, after some modifications, was adopted, laid down the following nine principal topics for discussion:

1. Uniformity in labor legislation throughout the Dominion.
2. Hours of labor.
3. Minimum wage legislation.
4. Employees' right to organize, recognition of labor unions, collective bargaining.
5. Proposed establishment of joint industrial councils.
6. State insurance against unemployment, sickness, invalidity, old age, etc.
7. Proportional representation.
8. Application where possible of the principle of democratic management recommended by the Commission on Industrial Relations in work controlled by the Government.
9. Other features of report of the Royal Commission on Industrial Relations or any other proposals bearing on relations of employers and employees.

On five of the eight principal topics before the Conference (one to eight) unanimous agreement was reached. The various interests were unable to agree on points 2, 4 and 8 above. On the two crucial subjects before the Conference—trade-union recognition as the basis for collective bargaining and the eight-hour day (two and four

above)—conflicting reports were filed. Likewise, on the question of the application of the principles of industrial democracy to the public service (eight above), differing views were expressed.

The practicability of an eight-hour day was denied by the employers on the grounds of the urgent need of accelerating production and of the necessity of competing with other countries. They also refused to place themselves on record as in favor of trade-unions as the basis of collective bargaining, and, also, would not approve the Whitley Councils in industry because they implied trade-union recognition. The Whitley Council plan of joint industrial councils in industry was, therefore, referred to the government for further study. The passage by the Provinces of minimum wage laws for women and children was unanimously recommended, and special investigations as to the wages of unskilled workers and school teachers throughout the Dominion were proposed. Uniform labor legislation throughout the Provinces was also recommended.

Fundamentally, the Canadian Industrial Conference was summoned to consider the advisability of enacting into legislation certain principles to govern industrial relations and conditions. It was conducted according to the usual parliamentary forms. Committees were appointed and their recommendations, when presented, were debated prior to final action. The Conference was not confronted with the duty of enacting a code of principles or a series of laws. As a consequence, it naturally followed the course of passing along problems for further governmental action. The greatest significance of the Conference lay in the fact that the representatives of organized employers and employees were brought face to face for the first time under governmental auspices,

and under the scrutiny of public representatives, to discuss matters of controversy between them. Great good was accomplished not only in the crystallization of thought as to the principles under discussion, but also in arriving at a greater measure of common understanding and of the possibility of more unanimous action in the future.

The Inter-Church World Movement which had been launched in this country in December, 1918, had by the creation of a Department of Industrial Relations, manifested its vital interest in the problems of labor and industry. Closely following upon the Canadian Conference, a conference was called by this Department of the Inter-Church Movement, to convene in New York on October 3, 1919. Announcement had already been made by President Wilson of the convocation of a general Industrial Conference in Washington later in the same month, and it was the purpose of the Inter-Church Movement by a preliminary conference to place itself on record before the more general conference.

About two hundred delegates from the different churches met in New York to consider the functions of the Church in relation to industrial matters. The findings of the Conference were significant as showing the attitude of the leading religious thinkers of the country on principles for the regulation of industry. They were as follows:

- (1). This conference was called by the Industrial Relations Department of the Inter-Church World Movement of North America on the recommendation of the Commission on Social Service of the Federal Council of the Churches of Christ in America, and the Secretaries of Social Service Commissions of several Christian bodies and organizations of the country. The

delegates were nominated by the above-named agencies. The purpose of these findings is to point out the moral principles involved in all industrial relations and to suggest some methods applicable to the present situation. No attempt is made to deal adequately with either the specific or general industrial problems but to indicate the Christian bases upon which these problems can be solved.

(2). The basic ethical principles of individual and social life may be briefly summarized as follows: (a) The inestimable value of the individual and the right of the individual to the fullest development of personality. (b) Service the supreme motive of human activity and the only true test of human valuation and achievement. (c) The inescapable responsibility of all individuals for complete devotion to the welfare of the whole social order and to the aim of establishing a genuine human brotherhood.

(3). These principles persistently and progressively applied will inevitably solve our industrial and social problems. The present industrial system is on trial. We are not committed to the present or any other industrial, social or political order or institution as a finality. In Christian principles alone, and in the civilization which they constitute, is found the essential and practical basis for the creative evolution of society. We urge the strict application of these principles to all such matters and property, industrial organization, democratic government and public education.

(4). We urge upon all parties interested in production the recognition and application of the following and similar methods for industrial readjustment: (i) The representation of the various parties in the government of industry. (ii) The right of workers to organize themselves for the development of just and democratic methods of collective bargaining between organizations of employers and workers. All differences in industry

involving human relationship are subject to discussion, and before final action is taken both sides are under moral obligation to confer together through their official representatives, even the minority being entitled to a hearing. (iii) The rational extension of cooperative movements in both the production and distribution of goods. (iv) In relation to the industrial status of women, freedom of choice of occupation, the assurance of equal opportunities with man in technical and vocational training, the determination of wages on the basis of occupation and service and not upon the basis of sex, the establishment of healthful conditions of employment and an equal voice with men in the democratic control and management of society. (v) The recognition of the right of our 12,000,000 negro fellow Americans to economic justice and to freedom from economic exploitation. (vi) The recognition of the right of foreign-born laborers to equal opportunities in their conditions of labor; the application of democratic principles to native and foreign-born alike in all relationships.

(5). Justice demands that all channels of publicity and education be kept free for full and impartial discussion.

(6). The principles of Jesus must be applied to the life and business of the individual Church members and to the organization and management of the Churches themselves in all their enterprises. This conference appeals to the entire membership of the Christian Churches of North America to undertake a thorough alinement of their lives with the elemental principles enunciated by Jesus. This constitutes a supreme issue in the present crisis. These moral imperatives must be taken seriously. Repentance for self-indulgence, self-seeking, and for acquiescence in standards of social prestige set up by dominant Pagan forces is vital. Mankind must be convinced that the principles of Jesus

have power over those who profess to know them best.

(7). To this end we recommend (a) A thorough reconstruction of the curricula and methods of religious education to insure that the youth of the Churches shall be trained for their future responsibility in the application of Christian principles to economic life. (b) The immediate study by the adults of the Churches of Christian principles as applied to the present industrial situation. (c) That all Christian colleges and theological schools provide adequate sociological and economic training for laymen and ministers to equip them for that leadership which the times demand.

(8). Industrial relations are of international significance. We therefore urge the serious consideration of Christian principles and proposals in international conferences by Churches and their promulgation by all Christian representatives throughout the world. Increasing numbers of intelligent and conscientious people believe that the conflict between the principles of Jesus and the industrial system based upon competition for private profit is sharply drawn. Those who believe that the present distress is not incurable under the present order have a great responsibility. Immediate and demonstrable progress must be made in applying moral principles and methods. Cooperation is imperative. Thus only can be bridged the gulf already existing between those who look only for an entirely new order and the forces of conservation.

The interests of the stability as well as of the progress of our civilization make imperative an earnest consideration of the principles and proposals above outlined.

These declarations are quoted in full because they show the significant bearing of the attitude of the churches toward the code or series of principles which have been put forward as the basis of industrial relationships.

There has been no more important influence upon the development of a proper code than the change in the attitude and declarations of the churches of this and other countries towards industrial matters since the termination of the World War.*

Prior to the Canadian Conference, President Wilson sent out letters to representatives of the public, of employers, and of labor, inviting them to participate in a general industrial conference to meet in Washington under the auspices of the Secretary of Labor, on October 6, 1919. This action was the culmination of considerable public discussion of the subject, and agitation to the end that a basis of procedure should be agreed upon between representatives of capital and labor as a condition of reconstruction.

The membership of the Conference was selected from three groups—employers, labor, and the public. The employers' group consisted of seventeen delegates, the labor group of nineteen, and the public group of twenty-two members. The differentiation between groups was not as satisfactory as it might have been, and was one of the fundamental causes of the lack of success of the Conference. In the public group, for example, among publicists and disinterested students were inconsistently placed John D. Rockefeller, Jr., capitalist and employer; Elbert H. Gary, Chairman of the Board and Chief Executive Officer of the United States Steel Corporation; and B. M. Jewell, President, Railway Employees' Department, American Federation of Labor, which has a membership of more than one million railway workers. Unlike the British Industrial Conference, which, it will be recalled, did not have a public group,

* Appendix contains a summary of the declaration of churches of all denominations.

and the Canadian Conference, which had a public group of engineers, economists and publicists without the right to vote, the American Conference not only had a public group, some members of which were obviously out of place, but the public group was given the right to vote. This was proper in theory, if the members of the group had been selected with greater care and had there been no doubt that they actually represented the public. Under the plan of organization it was further provided that voting should be by groups and that action of the Conference, to be binding, must be sanctioned by all three of the groups.

At the beginning of the Conference each group submitted a program. That of the public group, as submitted by Bernard M. Baruch, chairman of the former War Industries Board, was restricted to proposed machinery for dealing with labor disputes. Labor's program was the clearly defined set of principles for which organized labor had striven for years, and with the possible exception of the proposed national conference boards in the various industries, it contained little that was new. The employers' program confined itself to a statement of more or less general principles applicable to the management of industry and suggested practically no concrete methods for carrying them into effect. The adoption of the principle that the establishment rather than the industry should be made the unit of production would necessarily limit the settlement of difficult problems to the means of adjustment furnished by individual establishments. In a few particulars the programs coincided. Both provided for a living wage, and both advocated equal pay for men and women doing equal work, one day of rest in seven, and the discouragement of overtime.

Several individual plans for the adjustment of disputes between labor and capital were submitted and resolutions dealing with practically all the varied industrial problems were put into the record of the Conference. The Secretary of Labor's plan, submitted by the public group, in keeping with the idea of calling an industrial conference, presented a comprehensive program for the adjustment of industrial relations.

The three farmers' delegates at the Conference were seated with the employers' group. They rarely voted with the employers, however, and in principle frequently supported the labor group. The farmers' part in the industrial world was given expression in a fairly definite program which emphasized the fact that the interest of the farmer was both that of a wage-earner and also that of an employer. Attention was called to the need of extending Government credit to the farmers and of removing legal obstacles to the cooperative marketing of their products.

The Conference split on the question of collective bargaining and trade-unionism, as has been stated heretofore. It adjourned without day shortly after the withdrawal of the labor group after the fruitless debate, detailed in Chapter II, on the several resolutions in which it was sought to state explicitly an acceptable definition of collective bargaining. The public group alone held a few sessions at the urgence of the President, who tried vainly to save the Conference. This group, however, finally disbanded on October 24th, after making public a statement as to the results of the Conference. It also recommended the calling together of a new committee to outline and formulate a series of industrial standards covering both the conditions and the relations of employment.

The hopes which had been entertained since the armistice for an agreement and basis of procedure between capital and labor were thus dissipated. The aspirations of industrial statesmanship were for a time absolutely destroyed. There was a reversion to chaos and industrial warfare. The tragedy was all the greater for the public group, as well as for the representative, broad-minded, far-seeing employers who were in accord. The splendid opportunity for constructive action toward industrial peace and the stability and acceleration of production was lost by the obstructionist tactics of certain extreme or reactionary factions among the employers' group. The failure of the Conference was, in fact, a catastrophe both to the public and to industry in general, for it marked the abandonment of high hopes following the war for an enduring basis of industrial peace, and was the starting point for the disastrous series of industrial conflicts and tremendous losses with which the country has been afflicted during the past two years. It was all the more unfortunate that the possibilities of the conference were frustrated by a small but aggressive group of employers who could not be said to represent the preponderating opinion in industry in general, but who were distinctly backward in their thinking, and who permitted their unreasonable antipathy to the trade-union as the basis of collective bargaining to prevent them and their colleagues from rendering a notable service to industry and to the public. It has not been until recently that there has been any revival of the hopes for constructive action which had been so ruthlessly wrecked in this Conference.

Acting upon the recommendation of the public group, however, President Wilson soon convened a smaller group, composed entirely of representatives of the public,

to consider and make recommendations as to a policy for the governing of industrial conditions and relations. It was composed of sixteen delegates and assembled in Washington on December 1, 1919. W. B. Wilson, Secretary of Labor, was designated as chairman, and Herbert Hoover, then Food Administrator, as vice-chairman. Exhaustive hearings were held and investigations made. A preliminary report was submitted for general criticism on December 29, 1919, and a final report adopted and transmitted to the President March 6, 1920.*

In its final report, the Conference recommended the establishment of elaborate machinery for the mediation and arbitration of industrial disputes, including national and regional boards of inquiry and adjustment. Unfortunately, as a part of their plan, no principles were proposed specifically for the guidance of the adjustment agencies proposed. There was no provision for a code as the basis of the deliberations of either the National Industrial Board or Regional Adjustment Conferences. The series of adjustment agencies recommended consisted of a system of decentralized, regional boards, with the right of appeal to the national board only on questions of fact as to wages and working conditions.

Entirely apart, however, from the system of adjustment agencies proposed, the Conference did discuss and express itself on certain of the fundamental principles underlying industrial relations and conditions. Some of its more pertinent declarations, in this connection, were, as follows:

I. Collective Bargaining

The Conference did not meet squarely the question of trade-unionism as the basis for collective bargaining. Its attitude was evasive, and neither for nor against.

* This report is reprinted in Appendix.

It emphasized "employee representation" or a system of shop committees, either as supplementary to trade-unionism or as an independent system where trade-unions did not exist. No declarations were made either for or against the "open" or "closed" shop. The general statement of the Conference as to collective bargaining and other principles was as follows:

The conference is in favor of the policy of collective bargaining. It sees, in a frank acceptance of this principle, the most helpful approach to industrial peace. It believes that the great body of the employers of the country accept this principle. The difference of opinion appears in regard to the method of representation. In the plan proposed by the Conference for the adjustment of disputes, provision is made for the unrestricted selection of representatives by employees, and at the same time provision is also made to insure that the representatives of employees in fact represent the majority of the employees, in order that they may be able to bind them in good faith. The Conference believes that the difficulties can be overcome and the advantages of collective bargaining secured if employers and employees will honestly attempt to substitute for an unyielding, contentious attitude, a spirit of cooperation with reference to those aspects of the employment relation where their interests are not really opposed but mutual.

II. *Hours of Labor*

The Conference believes that experience has demonstrated that in fixing hours of labor in industrial establishments at a point consistent with the health of the employees, and with proper opportunity for rest and recreation, there should in all cases be provision for one day's rest in seven.

The Conference believes that in most factories, mines, and work-shops, and especially in repetitive

work, the present trend of practise favors a schedule of hours of not more than forty-eight hours per week.

The Conference does not think that a schedule of hours substantially less than the forty-eight-hour standard now in operation is at this time desirable, except in industries where a scientific study of the problem on the basis already outlined, indicates that such reduction is necessary for the protection of the health and safety of the workers and is in the public interest.

III. *Women in Industry*

Women can not enter industry without safeguards additional to those provided for men, if they are to be equally protected. The danger of exploiting their physical and nervous strength with cumulative ill effects upon the next generation, is more serious and the results are more harmful to the community. Special provision is needed to keep their hours within reason, to prohibit night employment in factories and work-shops, and to exclude them from those trades offering particular dangers to women.

Where women can and do perform work of equal quality and quantity as compared with that of men under similar conditions, they should receive equal pay. They should not be discriminated against in respect to opportunities for training and advancement, or the representation of their interests.

IV. *Wages*

Considered from the standpoint of public interest, it is fundamental that the basic wages of all employees should be adequate to maintain the employee and his family in reasonable comfort, and with adequate opportunity for the education of his children. When the wages of any group fall below this standard for any length of time, the situation becomes dangerous to the well-being of the state. No country that seeks

to protect its citizens from the unnecessary ravages of disease, degeneration, and dangerous discontent, can consistently let the unhampered play of opposing forces result in the suppression of wages below a decent subsistence level. Above that point, there may well be a fair field for the play of competition in determining the compensation for special ability, for special strength or special risk (where risk is unavoidable), but below that point the matter becomes one of which the state for the sake of its own preservation, must take account.

The nation is interested in the welfare of its citizens not only from the point of view of wages, but from the not unrelated one of productivity. If, therefore, the Conference recommends the establishment of hours and wages on a basis of justice to employees, it must also recommend that the employees do their part in seeing that the productivity of the nation is safeguarded. The nation has a right to ask that employees impose no arbitrary limitation of effort in the prosecution of their work. Such limitation decreases the country's output, and if practised at all generally, is bound to result in a decline of the standard of living. It is gratifying that many leaders of organized labor are in agreement as to the unsoundness of such limitation of output, and are opposed to its practise.

If it is for the nation to insure that wages shall not sink below a living level, and for the employees not to restrict production; it is incumbent upon employers to see that special effort and special ability on the part of their employees receive a stimulating compensation. If increased output and efficiency are met only by a reduction of piece prices, the incentive to such effort is taken away. Employees to do their best work must feel that they are getting a reasonable share of any increased return that they bring

the industry. Labor incentive is a factor that it is as short-sighted to ignore as incentive to capital.

Other subjects bearing upon labor conditions in industry, such as Child Labor, Unemployment, and Housing, were also discussed in the report of the Conference, aside from the excellent statement of principles as set forth in the preceding quotation.

The principles outlined by this second Conference were in the main all that could be desired in the public interest, considered from an abstract or academic standpoint. Ultimately, they may also be of value in the working out of a practical code for industrial relations. The deplorable aspect of the matter is that the members of the Conference in making their report either lacked the courage of their own convictions, or failed to realize the relative importance of principles as compared with machinery for the adjustment of industrial disputes. They worked out a comprehensive, but highly decentralized, system of adjustment agencies without providing any uniform series of standards which should be mandatory in the settlement of labor disputes under the mediatory or judicial agencies created. As a matter of fact, they made it impossible practically for a series of principles or a code even to be worked out under the functioning of their proposed agencies, because their proposal would limit adjustments to questions of fact. To use a time-worn, but apt, expression, the Conference got the cart before the horse. Principles were of primary and machinery of secondary importance. If the conferees had placed emphasis upon their declaration of principles, and had recommended the practical application of those principles by agreement, by legislation, or by executive action, so far as governmental action was possible, they would have performed an invaluable ser-

vice to industry and to the general public. As it is, the value of their work has been restricted to an admirable and acceptable, but abstract, declaration as to the fundamental principles or code which should be applied to industrial relations.

Following the second Industrial Conference, a valuable contribution to the development of a code was made by Senator W. S. Kenyon of Iowa.*

On January 20, 1920, as detailed in Chapter VI, he proposed that by action of the Congress, a National Labor Board should be created composed of representatives of capital, labor, and the public, with power to establish similar boards in all the basic industries. This Board would constitute the supreme court of industry. It would not have original jurisdiction, but would hear appeals on questions of principle or pure law only. The subordinate boards in the various basic industries would have original jurisdiction as to questions of fact. Pending the calling of another industrial conference after the plan adopted in Great Britain, the code, or series of principles of the National War Labor Board, would be mandatory upon the deliberations of decisions of the National Labor Board and the subordinate Industrial Labor Boards. When another industrial conference had been convened it might modify these principles, or approve them and add new ones for the guidance of the machinery created for the judicial settlement of labor disputes. If the conference could not agree, or, if it did not act, the system as established would proceed to function until changed in the judicial machinery or the code, by action of the Congress.

Complete machinery for the judicial settlement of controversies with a mandatory code was thus provided.

* Senator Kenyon's Resolution in full will be found in Appendix.

Changes were left to conference and agreement between labor and capital, and, this failing, to legislative action. The intent of the proposal was to provide for industrial self-government or an industrial judiciary in a sound way and to develop a code of procedure which would make for industrial peace and the acceleration of output. Unfortunately, after several hearings before the Senate Committee on Education and Labor, this proposed measure was dropped because of the pressure of other legislative matters. Later, however, in its fundamental features it was revived in connection with the Senate inquiry as to industrial warfare in West Virginia and President Harding's statements in his message to the Congress relative to the necessity for an industrial code and for the establishment of tribunals for the interpretation and application of such a code in industrial controversies.

While our industrial conferences since the war have been disappointing in that they have failed in the effort to secure an agreement or a sanction for the practical application of a code for industrial relations, on the other hand, in the practical adjustment of industrial disputes great gains have been made in the development of a code or set of principles which may be considered in the nature of the common law for the regulation of industrial relations and conditions. This has resulted necessarily, for the reason that official agencies for the judicial settlement of industrial disputes, or arbitration boards or commissions established to pass upon specific controversies, have been forced to find a basis for the interpretation and application of the facts which have been submitted for consideration by the parties to the controversies. The necessity for setting forth the reasoning upon which their decisions rest has caused labor

adjustment agencies to accept or reject certain basic principles. This procedure has been a striking feature of the arbitration of labor disputes since the war. Prior to the war, the established customs of agencies of this character was to announce a decision without any discussion of the reasons which led to their conclusions. The advocacy of fundamental principles in the presentation of disputes to arbitration or to other labor boards has also been a significant feature of such proceedings as contrasted with the period prior to the war.

One of the most important pronouncements as to basic principles was that enunciated in the report of the Federal Electric Railways Commission. The street railway industry had suffered greatly during the war, and in the summer of 1919 President Wilson appointed a Commission to make a general inquiry as to its physical and financial condition, and to make recommendations for its rehabilitation. The Commission was composed of representatives of the Department of Commerce, the Department of Labor, the War Finance Corporation, the Association of Street and Electrical Railways, and the Amalgamated Association of Street and Electrical Railway Employees.

Representatives of the employees in the industry appeared before the Commission and argued that their fundamental rights should be recognized as a condition to the rehabilitation of the industry in the interest of investors and the public. In response to their presentation, the Commission in its final report made the following pronouncement as to the principles which should be observed in relations between the street railway companies and their employees:*

* Proceedings of the Federal Electric Railways Commission. Final report, p. 2275.

The employees engaged in this occupation should have a living wage and humane hours of labor and working conditions. They should have the right to deal collectively with their employers through committees or representatives of their own selection.

In its first decision as to wages, on July 20, 1920, the Railroad Labor Board, created by the Esch-Cummins Law, known as the Transportation Act of 1920, recognized the principle of a living wage, as follows:*

The Board has endeavored to fix such wages as will provide a decent living and secure for the children of the wage-earners opportunity for education, and yet to remember that no class of Americans should receive preferred treatment and that the great mass of the people must ultimately pay a great part of the increased cost of operation entailed by the increase in wages determined herein.

In its decision about a year later reducing rates of pay of railway employees about twelve per cent, the Labor Board still adhered to this principle, and while basing its action primarily upon a decrease in the cost of living, refused to be influenced by the low rates of compensation in other industries because of the industrial depression, or to take the point of view that labor was a commodity whose value was determined by the interplay of supply and demand.†

The most far-reaching decision of the Board, so far as an industrial code is concerned, was delivered on April 14, 1921, in the so-called National Agreements case.‡ The Transportation Act itself established seven principles or standards which should be binding upon

* United States Railroad Labor Board, Decision No. 2 (Dockets 1, 2, and 3).

† United States Railroad Labor Board, Decision No. 147 (Docket 353).

‡ United States Railroad Labor Board, Decision No. 119 (Dockets 1, 2, and 3).

the Board in fixing rates of pay of railway employees. By its wage decisions above referred to, the Board itself added another principle by its own action—that of the living wage—making eight in all affecting wage determinations.

In the National Agreements decision of 1921, the Board practically established a code of sixteen additional principles to regulate industrial relations and conditions in the transportation industry. Fundamentally, this decision constituted the first industrial code, or series of principles mandatory upon industrial relations, which has ever been promulgated or given judicial sanction in this or any other country. The only analogous precedent is found in the principles of the National War Labor Board during the period of the war, and these were not so comprehensive as the sixteen cardinal principles enunciated by the Railroad Labor Board in its National Agreements decision. It was definitely decided that collective bargaining on the railroads should proceed upon the basis of complete trade-union recognition. The principle of the eight-hour workday with punitive overtime was established. A comprehensive and satisfactory classification of crafts or employees was worked out. Summarily stated, the essential features of the war-time National Agreements were reestablished in the transportation industry by the requirement that sixteen fundamental principles should be mandatory upon the negotiation of agreements with individual railroads and the adjustment of grievances arising under such agreements. This code, or series of principles, was as follows:

1. An obligation rests upon management, upon each organization of employees, and upon each employee to render honest, efficient and economical service to the carrier serving the public.

2. The spirit of cooperation between management and employees being essential to efficient operation, both parties will so conduct themselves as to promote this spirit.

3. Management having the responsibility for safe, efficient and economical operation, the rules will not be subversive of necessary discipline.

4. The right of railway employees to organize for lawful objects shall not be denied, interfered with or obstructed.

5. The right of such lawful organization to act toward lawful objects through representatives of its own choice, whether employees of a particular carrier or otherwise, shall be agreed to by management.

6. No discrimination shall be practised by management as between members and non-members of organizations or as between members of different organizations, nor shall members of organizations discriminate against non-members or use other methods than lawful persuasion to secure their membership. Espionage by carriers on the legitimate activities of labor organizations or by labor organizations on the legitimate activities of carriers should not be practised.

7. The right of employees to be consulted prior to a decision of management adversely affecting their wages or working conditions shall be agreed to by management. The right of participation shall be deemed adequately complied with, if and when the representatives of a majority of the employees of each of the several classes directly affected shall have conferred with the management.

8. No employee should be disciplined without a fair hearing by a designated officer of the carrier. Suspension in proper cases pending a hearing, which shall be prompt, shall not be deemed a violation of this principle. At a reasonable time prior to the hearing he is entitled to be apprised of the precise charge against

him. He shall have reasonable opportunity to secure the presence of necessary witnesses and shall have the right to be there represented by counsel of his choosing. If the judgment shall be in his favor, he shall be compensated for the wage loss, if any, suffered by him.

9. Proper classification of employees and a reasonable definition of the work to be done by each class for which just and reasonable wages are to be paid is necessary, but shall not unduly impose uneconomical conditions upon the carriers.

10. Regularity of hours or days during which the employee is to serve or hold himself in readiness to serve is desirable.

11. The principle of seniority long applied to the railroad service is sound and should be adhered to. It should be so applied as not to cause undue impairment of the service.

12. The Board approves the principle of the eight-hour day, but believes it should be limited to work requiring practically continuous application during eight hours. For eight hours' pay eight hours' work should be performed by all railroad employees except engine and train service employees, regulated by the Adamson Act, who are paid generally on a mileage basis as well as on an hourly basis.

13. The health and safety of employees should be reasonably protected.

14. The carriers and the several crafts and classes of railroad employees have a substantial interest in the competency of apprentices or persons under training. Opportunity to learn any craft or occupation shall not be unduly restricted.

15. The majority of any craft or class of employees shall have the right to determine what organization shall represent members of such craft or class. Such organization shall have the right to make an agreement

which shall apply to all employees in such craft or class. No such agreement shall infringe, however, upon the right of employees not members of the organization representing the majority to present grievances either in person or by representatives of their own choice.

16. Employees called or required to report for work, and reporting but not used, should be paid reasonable compensation therefor.

Throughout the street railway industry, it has become the custom to adjust wages and working conditions at regularly recurring intervals by conference and arbitrations. As a result of numerous arbitrations held in various localities, and especially in New England and the Middle States, through semi-judicial action a number of principles as to relations and conditions have received a general sanction. This has been especially true since 1918, when the National War Labor Board began the consideration of street railway disputes and applied the principles or code of the Board to their adjustment.

Since the signing of the armistice, also, old principles have been strengthened and new ones developed. Throughout these adjustments, the labor organization of the employees has been generally recognized and the principle of the acceptance of the union as the basis of collective bargaining has been sanctioned. There has also been practically complete acquiescence in the principle that labor is not a commodity the price of which should be determined by the law of supply and demand. The arbitrations which have occurred since the armistice have also been particularly significant in their acceptance of the living wage principle as the basis of determining rates of compensation for street railway employees. As illustrative of these tendencies in the establishment of an industrial code, some excerpts from recent awards

of wage arbitration boards in the street railway industry, may be cited.

The arbitration board in 1921, which heard the dispute between the Connecticut Company and its employees, made the following finding relative to the living wage principle:

The Board adopts the proposition, contended for by the men and not disputed by the company, that the fundamental principle which ought to govern the wage determination of arbitrators is the grant of a living wage. A living wage is generally defined as a sum which will support a family of five, consisting of a man and wife and three wholly dependent children, and will supply them with food in sufficient quantity and of good quality, living quarters with sanitary conveniences and large enough to meet the requirements of decency, clothing warm and of good appearance, heat, light, medical attendance and a provision for some amount of recreation, for whatever period of enforced non-employment may be expected in the particular industry and for membership in some mutual benefit society. In general, the opportunity for savings is supposed to be found before and after the period during which three wholly dependent children must be supported.

All of the items of expense enumerated are elastic, and the principle of the living wage requires that they be adjusted according to the degree of skill and responsibility which is demanded in the particular employment. The sum of money necessary to produce such a living wage in any year ought theoretically to vary with any change in the current cost of living.

Chairman Ogden, in the Eastern Massachusetts Street Railway Company arbitration of 1920, gave expression to the following decision relative to the commodity theory of labor and the living wage:

So far as my examination of the authorities goes, no

employer has before a Board of arbitration ever disputed the proposition that the workingman in America is entitled to a minimum fair living wage. The highest executive officer of the Commonwealth has within a year thus laid down in words that affect us all definite lines of policy: "Let there be a purpose in all your legislation to recognize the right of men to be well born, well nurtured, well educated, well employed and well paid. This is no gospel of ease and selfishness or class legislation, but a gospel of effort and service of universal application."

Nor does the company dispute this proposition now. It says that the men are receiving a fair living wage, as is proved by the law of supply and demand. I do not believe that the law of supply and demand, however applicable to the purchase and sale of merchandise or to industry in general, should have much, if any, weight in fixing the wage scale in public utilities. The only way in which the applicability of the law can be tested in any case is by the men going on strike and fighting it out to the bitter end. If they are to test it by fighting, then a fair fight requires that they be allowed to strike all at once and use every means legally possible to win their fight. Such a struggle with its inevitable concomitants of public inconvenience and distress, interruption of business, dislocation of all transportation facilities, and possible disorder, is emphatically not to the public interest, and therefore the whole economic progress of the last fifty years has been away from the strike as a means of testing whether under the law of supply and demand any wage scale in force is adequate.

As to the general necessity for an industrial code, in a recent arbitration case, decided November 14, 1921, between the Boston and Worcester Street Railway Company and its employees, the Board stated:

Before discussing the contentions of the company we

will refer to the claim of the employees that it is the duty of arbitrators to judicially determine all questions presented to them, basing such determination on well-defined principles of economics heretofore established by courts or boards of arbitration or enunciated by eminent authorities upon the subject. In other words, that the practise which unfortunately prevailed in the early days of arbitration of simply splitting the difference between the various contentions simply destroys the confidence of all parties in this method of settling industrial disputes. *With this view of the employees we are in entire agreement. The function of a board of arbitration is a judicial one and the questions presented for determination should be decided on their merits, whatever may be the results or the wishes of the parties.*

As a matter of fact, it was practically decided more than seven years ago in the street railway industry that the law of supply and demand, or the commodity theory of labor, had no place in arbitration proceedings, or the judicial settlement of industrial disputes.

In 1914, in an arbitration between the Boston Elevated Railway Company and its employees, the chairman of the board was James J. Storrow, Esq., an eminent Boston lawyer, a partner in the well-known banking house of Lee, Higginson & Company, and the Federal Fuel Administrator for New England during the war. In his decision, which was signed by all the other members of the board, Mr. Storrow stated:

There is another consideration which seems to us to bear on this subject, and to apply both to the blue uniform and the other employees of the Company. The men have a right to organize; they have a right to strike as a body. There may be a lingering few who still doubt the right of men in any employment to

organize, and, if working conditions are not reasonably satisfactory and no redress can be obtained, to strike; but the principle is too well settled to need discussion by this Board. A strike is much to be regretted, not lightly to be undertaken, and unquestionably to be condemned if it is unnecessary. If the men have a right to strike, what does it mean? It means that the men have a right to ascertain, not merely whether the Company can replace the men who normally from week to week drop out of the service, but also to test the question whether, if they all left the service, at the same time, the Company can within a reasonable length of time replace them. Now, if instead of striking, the men agree to arbitrate, it is not fair to take wholly out of consideration the question whether the Company is paying such a wage scale as would enable it to replace within a reasonable length of time its employees who are members of the union, if they struck. Obviously, this is a difficult question, and a question which could only be determined with certainty by having a strike and awaiting the outcome, but it is not in the interest of the men, of the Company, or of the community to settle the question in this way. In our judgment the ease with which the Company is securing from day to day employees at the existing wage scale to replace vacancies is a factor to be carefully weighed; but it does not wholly determine the question, especially in the case of motormen and conductors.

The arbitration board which heard the controversy between the Canadian National Railways and certain groups of their employees, in a decision of November 8, 1921, made the following pertinent finding as to the law of supply and demand and the living wage principle in fixing rates of pay:

It has been contended that the lower paid employees could, at the present time, be replaced without difficulty

by others, who would take the wages now offered or less. Under existing conditions this is probably the fact. But we cannot believe that the fixing of wages should be entirely left to the hard economic law of supply and demand. Supply and demand implies struggle with possible strikes and lockouts. The very existence of machinery and the appointment of a Board of Arbitrators seems to carry with it the suggestion that some idea of fairness must be allowed to ameliorate the operation of the economic law. This Board would not be prepared as a Board to endorse the general principle of a minimum wage. Much less would it be disposed to recommend the adoption of a minimum wage on one system of railways alone. The Board does, however, think that the railways of the country and more especially, perhaps, the Government railways owned by the people of Canada, in fixing wages, must have some regard to the minimum cost of living under frugal, but decent conditions. The Board thinks that some consideration be given to this aspect of pay to employees would help to bring about more equitable conditions.

It is claimed that all of these employees (i. e., freight checkers, leaders and stowers, freight truckers and porters, locomotive cleaners, ashpitmen, firebuilders and coalmen, common laborers, car checkers, baggage masters, station porters) are little more than common labor. This is true in a sense, but is untrue in another sense. It is not necessary for these employees to go through any long training, but most of them are permanent employees and we think that their positions require from them a considerable amount of intelligence and reliability. It is a difficult matter in a case like the present for a Board to do anything for the unskilled laborer, meaning by that the transitory employee who works here to-day and somewhere else to-morrow. It seems to us, however, that the permanent tho unskilled

employee can be dealt with without very great difficulty and we venture to express the opinion that it would not be merely decent treatment, but good business to see that these permanent employees get wages which will make them contented and willing. Thereby a certain *esprit de corps* is attained which is a distinct gain, not only to the railway management, but also to the business and traveling public.

During the year 1920, also, in this country, both of the arbitration boards which had been set up to adjust controversies in the coal industry, affecting approximately 700,000 mine workers, proceeded upon the assumption of the trade-union as the basis of collective bargaining. The framers of the Transportation Act did likewise, where two million wage earners were involved. In the soft coal industry, the Bituminous Coal Commission also, in 1920, with jurisdiction over about 500,000 men, accepted the principle of a living wage and made it the basis of its wage determination. Altogether, since the close of the war, the leading fundamental principles of industrial relations have been crystallized by judicial action, and the basis of a code has been given a practical application.

Probably the most significant and startling official pronouncement which has ever been made in favor of the establishment of an industrial code, however, was included in President Harding's message to the Congress of December 6, 1921, to which attention has already been called.

After recognizing the trade-unions as a necessary organization for the protection of the rights and the promotion of the aspirations of industrial workers, the President in his message declared that wage earners should have the right not only to organize, but also to

bargain collectively through representatives of their own choosing. He thus accepted and gave his approval to the principle which had been advocated by the groups representing labor and the public in the First Industrial Conference called by President Wilson, but which the group representing employers had rejected, and, as a consequence, caused the disruption of the Conference. In this connection President Harding's message to Congress was as follows:

The right of labor to organize is just as fundamental and necessary as is the right of capital to organize. The right of labor to negotiate, to deal with and solve its particular problems in an organized way, through its chosen agents, is just as essential as is the right of capital to organize, to maintain corporations, to limit the liabilities of stockholders.

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It might be well to frankly set forth the superior interest of the community as a whole to either the labor group or the capital group. With rights, privileges, immunities and modes of organization thus carefully defined, it should be possible to set up judicial or quasi-judicial tribunals for the consideration and determination of all disputes which menace the public welfare.

In an industrial society such as ours the strike, the lockout and the boycott are as much out of place and as disastrous in their results as is war or armed revolution in the domain of politics. The same disposition to reasonableness, to conciliation, to recognition of the other side's point of view, the same provision of fair and recognized tribunals and processes, ought to make it possible to solve the one set of questions as easily as the other. I believe the solution is possible.

The consideration of such a policy would necessitate

the exercise of care and deliberation in the construction of a code and a charter of elemental rights, dealing with the relations of employer and employee. This foundation in the law, dealing with the modern conditions of social and economic life, would hasten the building of the temple of peace in industry which a rejoicing nation would acclaim.

Thus, in addition to a most significant recommendation as to collective bargaining, it will be noted that President Harding also took the almost unprecedented course of advocating the formulation and sanction by legislative enactment of an industrial code, or a series of guiding, fundamental principles for the regulation of industrial relations and conditions which would be mandatory upon arbitration boards and labor-adjustment agencies. The importance of such a proposal becomes apparent when it is realized that if it should be adopted—and there can be no industrial peace or reasonable continuity of production until it is adopted—there would be established by legislative action an industrial bill of rights which could be invoked before labor boards or courts in the same way that the constitutional bill of rights is mandatory upon our regular judiciary in civil rights.

CHAPTER XIV

CONCLUSIONS

Preliminary to formulating the conclusions indicated by this discussion of the industrial code it may be well to review one or two of the more important phases of the general industrial situation in the United States at the beginning of the year 1922.

With international peace assured, for the time being at least, with the epoch-making movement for the limitation of armaments well under way, and with other vexing questions of diplomacy disposed of or nearing solution, economic problems more than ever pressed for consideration and action. First of these problems—first in point of logic if not in actual importance—was how to insure tranquillity and stability in industry once the wheels were started again, full speed, and it was patent to all thoughtful observers that this problem was complicated by the prevailing conditions in two great basic industries: coal and transportation. Disturbances and dislocations characterized many other industries, but none of them so affected the public welfare, and none so threatened the entire industrial structure of the nation, for not only must there be fuel and freight in order that all other industries may operate, but there must be reasonable assurance that there will be no failure of the coal supply and no interruption of transport, if industry in general is to go forward. Admittedly no such assurance was to be drawn from the situation that obtained at that time.

In the coal industry, the conditions that prevailed were nothing short of chaotic. Tens of thousands of miners

were conscripts in the army of the unemployed, and thousands of others for many months had only one or two days' work a week. Scores of mines were shut down and practically none was operating on a full basis.

So great was the distress among miners due to unemployment that the Governor of the State of Ohio on January 13th issued a proclamation in which he said:

"A situation nearing stages of calamity prevails in the coal-mining regions of Ohio. General depression in the coal trade has brought enforced idleness and with it privation to thousands of miners. Large numbers verge on the brink of starvation."

The miners had appealed for aid, the Governor continued, but had not appealed for charity. Instead they asked that "they be given a chance to fight want through work."

A controversy in the non-union fields of West Virginia that had resulted in what was termed civil war, necessitating intervention by the government and the sending in of Federal troops to restore law and order, and that had led to numerous injunction proceedings in the state and federal courts and to the wholesale indictments of operators and union leaders and officials on conspiracy charges, awaited the report of a Senatorial investigating committee and such action as the Congress might take to effect a permanent settlement. In Kansas, leaders of the miners were in jail, serving sentences for violation of the law creating the Kansas Industrial Court and it had been found necessary to call out troops to quiet disturbances growing out of a conflict between two factions of the union miners. In what is known as the central competitive field, Pittsburgh operators, who for years had met and negotiated with the officials of the miners' union, were declining to go into conference

with such officials, and in Illinois there were disquieting signs of clashes within the ranks of the miners. To top this all off, the time was at hand for the biennial conference between the operators and the union officials to negotiate a wage agreement for the entire industry and the air was electrical with portent that the operators would negotiate nothing save a wage reduction; that the miners would accept nothing less than the then prevailing scale of wages; and that there would be a general strike—or certainly the serious threat of a general strike—on or before the termination of the old wage agreement on April 1.

Further to aggravate this situation, the coal industry is what is known as a diseased industry. That is to say, it is over-developed and over-manned—there are more mines than are necessary to meet the fuel requirements of the country, and there are more miners than are needed to work the mines that can be operated at a profit and in the best interest of the public in general. Also, while the industry as a whole is about eighty per cent unionized, there are sufficient non-union mines to bring about a constant competition between union and non-union fields that makes impossible the maintenance of uniform wage standards and conditions of employment, and that contributes materially to the evil of intermittent or part-time operation of mines. Thus, we have restricted and irregular employment, high wage scales, and high prices of coal to the consumer.

At the same time, in the transportation industry a state of uncertainty and a harassing prospect of trouble prevailed. Wages of railway workers, which were increased in 1920 by the newly created Railroad Labor Board, were reduced in 1921 by the Board, and a strike was called, effective October 31, 1921, by the brother-

hoods when it became known that the railway executives would demand still further wage reductions. This strike order was abrogated, when the union officials received assurances that the Railroad Labor Board would consider no further wage cases until it had disposed of the national agreements cases, and this was interpreted to mean a delay of from six to eight months, and the crisis was averted. It was apparent, however, that the real difficulties in the situation had not been composed, and that the day of reckoning had been but postponed. No sooner had the strike been called off than one railroad after another served notice of further wage cuts and the expedition with which the Railroad Labor Board cleared its docket made it clear that the issue over wages would be joined at an earlier date than had been expected. At the same time, the leaders of the railway workers let it be known that there had been no change in their plan to resist further decreases in pay, and if necessary resort to the extreme of tying up, or attempting to tie up, all the transportation systems of the country.

Along with this, one great railroad resisted one of the decisions of the Railroad Labor Board and instituted court proceedings to determine the Board's authority and power to regulate the methods and conditions of the election of employee representatives to deal with the management; and other roads inaugurated a program of "farming out" their repair work, which was denounced by the workers as one of the measures of a conspiracy to break down the unions and to establish the open shop. In this latter move, by which the railroads closed their own repair shops and contracted to have their repairs done in outside shops and in some instances leased their shops to independent companies which were then awarded

the repair contracts, the managements claimed they were justified by the onerous rules and working conditions insisted upon by the unions.

Whatever the justice of the contentions of either side, there was one outstanding fact in this situation, and that was that the relations between the railroad managements and the railroad workers were anything but harmonious. There was a lamentable lack of a spirit of cooperation and an over-abundance of distrust, suspicion and bitterness. Management seemed solely concerned with net earnings. Labor's chief interest was in its wage. Both sides apparently had lost sight of the idea that their essential function is one of service to the public, and neither seemed to realize that inevitably each would suffer in its selfish interest as long as bickering and strife featured their relations.

Turning from the conditions in the two great industries of coal and transportation to the general industrial situation again, we must take note of one of the most significant of the postwar developments—the open shop movement. That there was such a movement, and that it was antagonistic to the unions, is not to be gainsaid. To identify all those who were identified with it and to explore its processes and its ramifications would be a never-ending task, and it is sufficient for present purposes to cite the fact that there was such a movement and that labor leaders denounced it as a conspiracy, the ultimate purpose of which was to destroy all unions and restore the individual contract as the basis of the relation between employer and employed. With a considerable element of the employers of the country favoring if not actively promoting a movement that so aroused the fears and wrath of all union labor, it is obvious that a situation was being rapidly created in which anything

might happen, and the very uncertainty as to what would happen was a tremendous handicap to those who were endeavoring to get business back to normal and to restore general prosperity.

It is not surprising, therefore, that the President of the United States in addressing the Congress in the closing days of the year 1921, discussed the subject of industrial relations at some length, but it is of great importance and extremely significant that he should call attention to the need of an industrial code. The presidential utterance may be accepted as the crystallization of the best thought of unprejudiced minds as to the first step to be taken to promote and to maintain industrial peace. As such it must receive the earnest consideration of all who are interested in the solution of the most important of the problems of human relations, and that includes, or should include, every individual old enough and able to give thought to his own, to his nation's and to the world's welfare.

President Harding did not submit or suggest the specific provisions of an industrial code, and at the time this is written there is no concrete code proposal before the Congress except such as was embodied in the Kenyon resolution, which would reaffirm the principles of the former National War Labor Board pending the working out of a modified or more elaborate code, and the one presented in the Kenyon Bill for dealing with the coal problem. It may be well, therefore, to recapitulate the conclusions arrived at in this survey of the subject and to present them in the form of a code declaration, as follows:

To the end that there may be peace in industry, with equal and exact justice to capital, to labor and to the public, and to the end that there may be uniformity and

regularity of employment and that production may be stabilized and stimulated, these principles are proclaimed as the bases of all relations between employer and employed and of all adjustments of such relations:

1. The right of employers and of employees to organize is recognized and affirmed. This right shall not be denied, abridged, or interfered with in any manner whatsoever, nor shall coercive measures of any kind be used by employers or employees, or by their agents or representatives, to compel or to induce employers or employees to exercise or to refrain from exercising this right.

2. The right of employers and of employees to bargain collectively through representatives of their own choosing is recognized and affirmed.

3. The right of all workers to a living wage, with differentials for skill, experience, hazards of employment, regularity of employment, and deficiencies, is recognized and affirmed.

4. Eight hours is recognized as the standard work day and six days as the standard work-week. If conditions render the application of the standard work-day and work-week impossible or impracticable, then the basic eight-hour day and forty-eight-hour week shall prevail, with payment for overtime or extra time at a rate in excess of the basic hourly or weekly rate.

5. The right of women to engage in industrial occupations is recognized and affirmed; their rates of pay shall be the same as those of male workers for the same or equivalent service performed; they shall be accorded all the rights and guarantees granted to male workers and the conditions of their employment shall surround them with every safeguard of their health and strength and guarantee them the full measure of protection which is the debt of society to mothers and to potential mothers.

The foregoing may be accepted as the irreducible minimum of the declarations that should be embodied in an industrial code. That is to say, any code, to be a complete code, universal in its application, must include

declarations on these five fundamentals, altho the phraseology and the nature of the specific declarations may be altered to suit the purposes and the beliefs of those who frame the code. It is contended, however, in support of the principles as formulated that they express conclusions dictated by experience and that they have the sanction and approval of enlightened public opinion.

To these five principles any others, not contradictory in intent or content, may, of course, be added, and undoubtedly there will be a more or less general insistence that the code should contain a principle prohibiting or limiting strikes and lockouts. If a code, substantially as outlined, is established and made mandatory upon all employers and all workers, it may be urged that there will never be any need of or occasion for a provision against strikes and lockouts. At the risk of wearying the reader by reiteration it may also be pointed out again that as long as we have free labor and free industry, we shall be confronted with the possibility of strikes and lockouts, or by the results of what are in effect strikes and lockouts, by whatever names they may be known and by whatever evasions or subterfuges they may be brought about. Only by the creation of an overwhelming public opinion, by education, and by instilling in men's minds and hearts a willingness to subordinate selfish interests to the general good can society be secure against the menace of interruptions of industry resulting from conflicts between those who work and those who employ. Labor will never yield its insistence upon the right to strike, and capital is just as jealous of its right to make the counter move known as the lockout.

However, with the promulgation of an industrial code, universal in its application, with the creation of the machinery necessary to interpret and to administer the code,

and with the establishment of the authority requisite to enforce it, both labor and capital might assent to a provision substantially as follows:

When a controversy arises between employer and employed there shall be no strike or lockout pending investigation and determination of the controversy by the duly authorized tribunal.

Such a provision would not prevent strikes and lockouts but it might be expected to exercise a wholesome restraining influence. Moreover, workers would be slow to strike and employers reluctant to close down their establishments if they knew that they could not expect consideration, to say nothing of redress, of their grievances by the duly constituted agencies as long as the strike or lockout continued.

No extensive or complicated governmental machinery of adjudication and administration is contemplated by those who advocate an industrial code. One federal body, supreme in authority as a court of last resort, is of course necessary. Whether it be designated and known as a "court," a "board" or a "commission" is not material. Experience would indicate that it should be tripartite in character, including representatives of labor and of employers, as such, as well as representatives of the public. Appeals to this tribunal should be had only on questions of law and principles, questions of fact being determined by subordinate agencies. It might be found advisable or necessary to create national boards in one or two basic industries, such as the coal industry, similar to the Railroad Labor Board in the transportation industry, but once the code is established, it is to be expected that industry in general would speedily organize itself and create the subordinate agencies

needed to adjust minor differences and make findings as to facts in controversies that might ultimately be carried to the supreme federal tribunal. Manifestly, the law establishing the code should provide authority for its application and enforcement and penalties for its violation.

There has been much discussion and interest aroused by the experiment in labor adjustment which is now being tried in Kansas under the form of the Kansas Industrial Court. It is a direct contradiction of the plan of a labor tribunal based on a code of industrial principles. It has no regulatory or mandatory principles. It has no bill of rights which can be invoked before the Court by a labor organization, person or corporation coming under its jurisdiction. Such principles as the Court may follow depend entirely upon the decision of the Judges of the Court.

Aside from this fundamental defect, as well as from any constitutional objections, the Court of Industrial Relations can not be permanently maintained in its present form, because in the first place, it is based on a violation of all previous experience, both here and abroad, arising from legislation prohibiting strikes, and, in the second place, it aims to solve a problem in human adjustments with an arbitrary, rigid, and unrestricted judicial fiat. A tribunal based upon a code of principles, sanctioned by industrial usage, enlightened public opinion, and the sanction of the Congress, would not have any such defects, and would meet with complete success and approval.

Opponents of an industrial code, and they are drawn largely from the ranks of those who are opposed to unions, argue that its establishment would add unduly to the strength of labor organizations and in the end

virtually place the control of industry in the hands of union officials. Higher wages, shorter hours and burdensome rules, and working conditions, they contend, would be exacted and imposed until the labor costs of production would soar to impossible levels and be in effect confiscatory. These critics insist that the crying evil in the industrial world is, that the average worker will not return a fair day's work for a fair day's wage; that the first thing the union recruit is taught is to "lay down on the job." They point to the revelations of the Lockwood investigation of the building trades in New York as evidence of the menace of too great power wielded by firmly entrenched union leaders, and they assert that all postwar developments justify them in their resistance to all measures or programs that contemplate further governmental regulation of or interference in industrial relations. "Less government in business and more business in government," is their shibboleth.

It is not to be inferred that the code idea is advanced in behalf of labor, or that it is a part of the so-called labor program. On the contrary, as has been indicated, some of the bitterest opposition to the establishment of the code comes from labor sources, and it is probable that little headway will be made in the movement for a code until there has been a thorough awakening of that great mass of society which does not participate directly in industry. This element of society is unwieldy and unorganized, with widely divergent ideas and interests. It may be moved to common purpose and concerted action only by the slow process of education and events, or by a crisis that is catastrophal in its proportions or in its menace to established institutions.

The signs of the times during the first three months of the year 1922, however, pointed to a general awaken-

ing of the public mind to the necessity of action directed to a solution of the problem of the relations of employer and employed, and on April 1st there came a crisis in the form of a nation-wide coal strike, or shutdown, as the miners insist it should be termed.

Bituminous operators persisted in their refusal to abide by their contractual agreement to confer with the mine-workers' representatives and undertake to work out a new schedule of wages and working conditions to succeed the one expiring on March 31st. Anthracite operators met with the labor group in their branch of the industry, but a new agreement was not established by the date of expiration of the old one. Bituminous miners were demanding a continuation of the old wage scale; anthracite miners were insistent upon a wage increase. In this *impasse*, the United Mine Workers of America called upon all union miners to cease work at midnight March 31st, and invited the cooperation of all non-union miners. The call was obeyed by union miners generally, and the workers in many independent mines—notably in western Pennsylvania—also ceased work. In the anthracite field the tie-up was practically complete. Mediatory efforts by the Government, through the Department of Labor and other agencies, failed of result, primarily because of the obduracy of the bituminous operators, and it was announced that there would be no governmental intervention until there was evidence that the public was suffering from a fuel shortage or from an unwarranted advance in coal prices.

In this situation, Congress was stirred to action. The House Committee on Labor instituted an inquiry apropos of measures providing for a thorough investigation of the coal industry, and held a series of public hearings. In the Senate interest was centered largely in the

Kenyon Bill,* which had been introduced by the Senator from Iowa on February 13th, and which was entitled, "A bill to provide for the settlement of disputes between employers and employees in the coal-mining industry; to establish a board for the adjustment of such disputes; to stabilize conditions of production; and for other purposes."

The labor provisions of the Transportation Act of 1920 are followed in all essential particulars of the Kenyon Bill in so far as the creation of a Labor Board for the coal industry and the procedure and powers of that tribunal are concerned. However, it is of especial interest in the present discussion to note that the bill also seeks to establish a complete code to govern the relations of the miners and the operators. The principles worked out in this study of the subject were submitted to Senator Kenyon and accepted by him, and with certain modifications and elaborations they are incorporated in the code which his measure proposes. Section 9 provides that "all the decisions of the Labor Board, in respect to wages and working conditions of employees, shall establish rates of wages and salaries and standards of working conditions which, in the opinion of the Board, are just and reasonable," and provides further:

In determining the justness and reasonableness of such wages or working conditions the Board, in addition to other relevant principles, standards, and facts, shall take into consideration and be guided by the following fundamental principles:

1. Coal is a public necessity, and in its production and distribution the public interest is predominant.
2. Human standards should be the constraining influ-

* See Appendix.

ence in fixing the wages and working conditions of mine workers.

3. Capital prudently and honestly invested in the coal industry should have an adequate return.

4. The right of operators and miners to organize is recognized and affirmed. This right shall not be denied, abridged, or interfered with in any manner whatsoever, nor shall coercive measures of any kind be used by employers or employees, or by their agents or representatives, to compel or to induce employers or employees to exercise or to refrain from exercising this right.

5. The right of operators and of miners to bargain collectively through representatives of their own choosing is recognized and affirmed.

6. The miners who are not members of a union have the right to work without being harassed by fellow workmen who may belong to unions. The men who belong to a union have the right to work without being harassed by operators. The organizations have a right to go into nonunion fields and by peaceable methods try to persuade men to join the unions, but they have no right to try to induce employees to violate contracts which they have entered into with their employers, and the operators, on the other hand have the right by peaceable means to try to persuade men to refrain from joining the unions.

7. The right of every unskilled or common laborer to earn a living wage sufficient to maintain a normal family in health and reasonable comfort, and to afford an opportunity for savings against unemployment, old age, and other contingencies is hereby declared and affirmed. Above this basic wage for unskilled workers, differentials in rates of pay for other mine workers shall be established for skill, experience, hazards of employment and productive efficiency.

8. The right of women to engage in industrial occupations is recognized and affirmed; their rates of pay shall be the same as those of male workers for the same or

equivalent service performed; they shall be accorded all the rights and guaranties granted to male workers and the conditions of their employment shall surround them with every safeguard of their health and strength and guarantee them the full measure of protection which is the debt of society to mothers and to potential mothers.

9. Children under the age of sixteen years shall not be employed in the mines.

10. Six days shall be the standard work week in the industry with one day's rest in seven. The standard work day shall not exceed eight hours a day.

11. Punitive overtime shall be paid for hours worked each day in excess of the standard workday.

SEC. 10. When the Labor Board has taken jurisdiction in a case the board's decision shall be rendered within sixty days from the time it has assumed jurisdiction unless this period is extended by agreement of the parties.

SEC. 11. Any order of the Labor Board arising from a case affecting a majority of the employers or employees of the coal-mining industry may, at the discretion of the board, be extended by the board to cover other employers and employees similarly situated.

Senator Kenyon has retired from the Senate to accept a federal judgeship, and his position as chairman of the Senate Committee on Education and Labor has been assumed by Senator Borah, of Idaho. At the time this is written, it can not be said who will favor and who will oppose the Kenyon Bill, or the measure that may be substituted for it, but with the President of the United States as an advocate of the industrial code idea, and with conditions in the coal industry that render governmental action inevitable, some legislation along this line may reasonably be expected.

By Congressional mandate and by the rulings of the

United States Railroad Labor Board, we have now the beginnings of a code in the transportation industry. If this is followed by the establishment in the coal industry of some such code as that proposed in the Kenyon Bill, it may be concluded that the day is not far distant when relations in all industries will be governed and adjusted on the basis of principles that safeguard the rights and interests of every member of society. In the speedy coming of that day, lie the hopes of those who seek industrial peace.

The deplorable tendencies in industrial life which followed the war, temporarily checked the good effects of our war experience. War-time cooperation has been superseded by suspicion, distrust, controversy and open industrial warfare. The self-interest of the public, as well as its plain duty, demands that it act to stop these unnecessary and costly tendencies, and to stimulate a return to a basis of confidence and united effort. It is plain that this can only be done now *by the public* in establishing, through legislative action, a code of principles regulatory of industrial relations and conditions for the reason that capital and labor are so affected by their controversies that they cannot reach an agreement. This code should safeguard the rights and legitimate aspirations of both labor and capital, and should protect the public interest. It should not be rigid, but should be changed and developed as time goes on in accordance with the practises and usages of industry and the sanctions of enlightened public opinion.

APPENDICES

APPENDIX A

NATIONAL WAR LABOR BOARD

REPRESENTING EMPLOYERS

LOYALL A. OSBORNE
P. F. SULLIVAN, ALTERNATE
C. E. MICHAEL
J. W. MARSH, ALTERNATE
W. H. VAN DERVOORT
H. H. RICE, ALTERNATE
C. A. CROCKER
HAROLD O. SMITH, ALTERNATE
B. L. WORDEN

WILLIAM H. TAFT

JOINT CHAIRMEN

FREDERICK N. JUDSON WM. HARMAN BLACK

VICE CHAIRMEN

W. JETT LAUCK, SECRETARY

REPRESENTING LABOR

FRANK J. HAYES
ADAM WILKINSON, ALTERNATE
W. L. HUTCHESON
T. M. GUERIN, ALTERNATE
WM. H. JOHNSTON
FRED HEWITT, ALTERNATE
VICTOR A. OLANDER
MATTHEW WOLL, ALTERNATE
T. A. RICKERT
JOHN J. MANNING, ALTERNATE
BASIL M. MANLY

PRINCIPLES

PROCLAMATION BY THE PRESIDENT OF THE UNITED STATES

Whereas in January, nineteen hundred and eighteen, the Secretary of Labor, upon the nomination of the president of the American Federation of Labor and the president of the National Industrial Conference Board, appointed a War Labor Conference Board for the purpose of devising for the period of the war a method of labor adjustment which would be acceptable to employers and employees; and

Whereas said Board has made a report recommending the creation for the period of the war of a National War Labor Board with the same number of members as, and to be selected by the same agencies that created, the War Labor Conference Board, whose duty it shall be to adjust labor disputes in the manner specified, and in accordance with certain conditions set forth in the said report; and

Whereas the Secretary of Labor has, in accordance with the recommendation contained in the report of said War Labor Conference Board dated March 29, 1918, appointed

as members of the National War Labor Board Hon. William Howard Taft and Hon. Frank P. Walsh, representatives of the general public of the United States; Messrs. Loyall A. Osborne, L. F. Loree, W. H. Van Dervoort, C. E. Michael, and B. L. Worden, representatives of the employers of the United States; and Messrs. Frank J. Hayes, William L. Hutcheson, William H. Johnston, Victor A. Olander, and T. A. Rickert, representatives of the employees of the United States:

Now, therefore, I, WOODROW WILSON, President of the United States of America, do hereby approve and affirm the said appointments and make due proclamation thereof and of the following for the information and guidance of all concerned:

The powers, functions, and duties of the National War Labor Board shall be to settle by mediation and conciliation controversies arising between employers and workers in fields of production necessary for the effective conduct of the war, or in other fields of national activity, delays and obstructions in which might, in the opinion of the National Board, affect detrimentally such production; to provide, by indirect appointment, or otherwise, for committees or boards to sit in various parts of the country where controversies arise and secure settlement by local mediation and conciliation; and to summon the parties to controversies for hearing and action by the National Board in event of failure to secure settlement by mediation and conciliation.

The principles to be observed and the methods to be followed by the National Board in exercising such powers and functions and performing such duties shall be those specified in the said report of the War Labor Conference Board dated March 20, 1918, a complete copy of which is hereunto appended.*

The National Board shall refuse to take cognizance of a controversy between employer and workers in any field of industrial or other activity where there is by agreement or Federal law a means of settlement which has not been invoked.

*Not printed herewith.

And I do hereby urge upon all employers and employees within the United States the necessity of utilizing the means and methods thus provided for the adjustment of all industrial disputes, and request that during the pendency of mediation or arbitration through the said means and methods, there shall be no discontinuance of industrial operations which would result in curtailment of the production of war necessities.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done in the District of Columbia, this eighth day of April, in the year of our Lord one thousand nine hundred and eighteen, and of the independence of the United States the one hundred and forty-second.

[SEAL]

WOODROW WILSON.

By the President:

ROBERT LANSING,

Secretary of State.

FUNCTIONS, POWERS AND DUTIES OF THE BOARD

The functions and powers of the National War Labor Board are as follows:

To bring about a settlement, by mediation and conciliation, of every controversy arising between employers and workers in the field of production necessary for the effective conduct of the war.

To do the same thing in similar controversies in other fields of national activity, delays and obstructions in which may, in the opinion of the National Board, affect detrimentally such production.

To provide such machinery, by direct appointment or otherwise, for the selection of committees or boards to sit in various parts of the country where controversies arise, to secure settlement by local mediation and conciliation.

To summon the parties to the controversy for hearing and action by the National Board in case of failure to secure settlement by local mediation and conciliation.

If the sincere and determined effort of the National Board shall fail to bring about a voluntary settlement and the members of the board shall be unable unanimously to agree upon a decision, then and in that case and only as a last resort an umpire appointed in the manner provided in the next paragraph shall hear and finally decide the controversy under simple rules of procedure prescribed by the National Board.

The members of the National Board shall choose the umpire by unanimous vote. Failing such choice, the name of the umpire shall be drawn by lot from a list of ten suitable and disinterested persons to be nominated for the purpose by the President of the United States.

The National Board shall hold its regular meetings in the city of Washington, with power to meet at any other place convenient for the board and the occasion.

The National Board may alter its methods and practise in settlement of controversies hereunder from time to time as experience may suggest.

The National Board shall refuse to take cognizance of a controversy between employer and workers in any field of industrial or other activity where there is by agreement or Federal law a means of settlement which has not been invoked.

The place of each member of the National Board unavoidably detained from attending one or more of its sessions may be filled by a substitute to be named by such member as his regular substitute. The substitute shall have the same representative character as his principal.

The National Board shall have power to appoint a secretary and to create such other clerical organization under it as may be in its judgment necessary for the discharge of its duties.

The National Board may apply to the Secretary of Labor for authority to use the machinery of the Department in its work of conciliation and mediation.

The action of the National Board may be invoked, in respect to controversies within its jurisdiction, by the Secretary of Labor or by either side in a controversy or its duly authorized representative. The board, after summary consideration, may refuse further hearing if the case is not of such character or importance as to justify it.

In the appointment of committees of its own members to act for the Board in general or local matters, and in the creation of local committees, the employers and the workers shall be equally represented.

The representatives of the public in the Board shall preside alternately at successive sessions of the board or as agreed upon.

The Board in its mediating and conciliatory action, and the umpire in his consideration of a controversy, shall be governed by the following principles:

PRINCIPLES AND POLICIES TO GOVERN RELATIONS
BETWEEN WORKERS AND EMPLOYERS IN WAR
INDUSTRIES FOR THE DURATION OF THE WAR

There should be no strikes or lockouts during the war.

RIGHT TO ORGANIZE.

The right of workers to organize in trade-unions and to bargain collectively through chosen representatives is recognized and affirmed. This right shall not be denied, abridged, or interfered with by the employers in any manner whatsoever.

The right of employers to organize in associations or groups and to bargain collectively through chosen representatives is recognized and affirmed. This right shall not be denied, abridged, or interfered with by the workers in any manner whatsoever.

Employers should not discharge workers for membership in trade-unions, nor for legitimate trade-union activities.

The workers, in the exercise of their right to organize, should not use coercive measures of any kind to induce persons to join their organizations nor to induce employers to bargain or deal therewith.

EXISTING CONDITIONS.

In establishments where the union shop exists the same shall continue, and the union standards as to wages, hours of labor, and other conditions of employment shall be maintained.

In establishments where union and non-union men and women now work together and the employer meets only

with employees or representatives engaged in said establishments, the continuance of such conditions shall not be deemed a grievance. This declaration, however, is not intended in any manner to deny the right or discourage the practise of the formation of labor unions or the joining of the same by the workers in said establishments, as guaranteed in the preceding section, nor to prevent the War Labor Board from urging or any umpire from granting, under the machinery herein provided, improvement of their situation in the matter of wages, hours of labor, or other conditions as shall be found desirable from time to time.

Established safeguards and regulations for the protection of the health and safety of workers shall not be relaxed.

WOMEN IN INDUSTRY.

If it shall become necessary to employ women on work ordinarily performed by men, they must be allowed equal pay for equal work and must not be allotted tasks disproportionate to their strength.

HOURS OF LABOR.

The basic eight-hour day is recognized as applying in all cases in which existing law requires it. In all other cases the question of hours of labor shall be settled with due regard to governmental necessities and the welfare, health, and proper comfort of the workers.

MAXIMUM PRODUCTION.

The maximum production of all war industries should be maintained and methods of work and operation on the part of employers or workers which operate to delay or limit production, or which have a tendency to artificially increase the cost thereof, should be discouraged.

MOBILIZATION OF LABOR.

For the purpose of mobilizing the labor supply with a view to its rapid and effective distribution, a permanent list of the numbers of skilled and other workers available in different parts of the country shall be kept on file by the Department of Labor, the information to be constantly furnished—

1. By the trade-unions.

2. By State employment bureaus and Federal agencies of like character.

3. By the managers and operators of industrial establishments throughout the country.

These agencies shall be given opportunity to aid in the distribution of labor as necessity demands.

CUSTOM OF LOCALITIES.

In fixing wages, hours, and conditions of labor, regard should always be had to the labor standards, wage scales, and other conditions prevailing in the localities affected.

THE LIVING WAGE.

1. The right of all workers, including common laborers, to a living wage is hereby declared.

2. In fixing wages, minimum rates of pay shall be established which will insure the subsistence of the worker and his family in health and reasonable comfort.

RESOLUTION ADOPTED BY NATIONAL WAR LABOR BOARD JULY 31, 1918

Resolved, That the National War Labor Board deems it an appropriate time to invite the attention of employers and workers alike to the wisdom of composing their differences in accord with the principles governing the National War Labor Board, which were approved and promulgated by the President in his proclamation of April 8, 1918;

That this war is not only a war of arms, but also a war of workshops; a competition in the quantitative production and distribution of munitions and war supplies, a contest in industrial resourcefulness and energy;

That the period of the war is not a normal period of industrial expansion from which the employer should expect unusual profits or the employees abnormal wages; that it is an interregnum in which industry is pursued only for common cause and common ends;

That capital should have only such reasonable returns as will assure its use for the world's and Nation's cause, while the physical well-being of labor and its physical and mental effectiveness in a comfort reasonable in view of the exigencies of the war should likewise be assured;

That this board should be careful in its conclusions not to make orders in this interregnum, based on approved views of progress in normal times, which, under war conditions, might seriously impair the present economic structure of our country;

That the declaration of our principles as to the living wage and an established minimum should be construed in the light of these considerations;

That for the present the board or its sections should consider and decide each case involving these principles on its particular facts and reserve any definite rule of decision until its judgments have been sufficiently numerous and their operation sufficiently clear to make generalization safe.

STATEMENT FOR THE PUBLIC, DECEMBER 5, 1918

In order to meet the changed conditions resulting from the signing of the armistice, and the withdrawal of the Federal Government's control over the industries of the country, the National War Labor Board, after conference with the Secretary of Labor, has made an order providing that in the future it will act only in such cases as are jointly submitted to it for arbitration. All complaints filed after December 5, setting forth industrial controversies, will therefore be referred to the Labor Department for action by its Mediation and Conciliation Bureau. Failing settlement in such cases the Secretary of Labor will refer back to the War Labor Board only the cases in which both parties voluntarily submit the issues to the jurisdiction of the National War Labor Board and agree to abide by its decision. All cases now before the Board will be handled as they have been in the past.

PROCEDURE

METHOD OF PRESENTING COMPLAINTS AND PROCEDURE OF BOARD

(AS ADOPTED BY THE BOARD ON MAY 13, 1918)

DOCKET

The secretary of the Board shall keep one docket for the

filing of all complaints, submissions, and references, and shall number them on the docket in the order in which they are received and filed. Thereafter the cases shall be referred to by such numbers.

REFERENCES

Where the complaint or submission filed shall show clearly that another board than this has primary jurisdiction therein, the secretary is authorized to direct the proper reference, and to advise the party or parties initiating the proceedings of such reference. At the next session of the Board the secretary shall advise the Board of his disposition thereof.

ORGANIZATION OF THE BOARD FOR HEARINGS AND ADJUSTMENT

In respect to every local controversy, two members of the Board, one from the employers' side and one from the employees' side; shall be appointed to act for the Board, the members to be named by the joint-chairmen at the instance of the respective groups of the Board. These members shall be called a Section of the Board, and shall hear and adjust cases assigned to them. If they can not effect any adjustment, they shall summarize and analyze the facts and present the same to the Board with their recommendations.

The National Board may appoint permanent local committees in any city or district to act in cases therein arising. In the selection of such local committees, recommendations will be received by the National Board from associations of employers and from the central labor body of the city or district and other properly interested groups. Sections of the Board are authorized to appoint temporary local committees where permanent local committees have not been appointed by the Board.

ARBITRATION

When the Board, after due effort of its own, through Sections, local committees, or otherwise, finds it impossible to settle a controversy, the Board shall then sit as a board of arbitration, decide the controversy, and make an award, if it can reach a unanimous conclusion. If it can not do

this, then it shall select an umpire, as provided, who shall sit with the Board, review the issues, and render his award.

COORDINATION OF THE WORK OF EXISTING BOARDS

To comply with the direction of the President in his proclamation of April 8, 1918, constituting the National War Labor Board, this Board will hear appeals in the following cases:

Where the principles established by the President in such proclamation have been violated.

Where an award made by a board has not been put into effect by employers, or where the employees have refused to accept or abide by such award.

To determine questions of jurisdiction as between Government boards.

Appeals will not be heard by the National War Labor Board from the decisions of regularly constituted boards of appeal, nor from any other board to revise findings of fact.

FURTHER RULES OF PROCEDURE

(AS AMENDED FROM TIME TO TIME UP TO AND INCLUDING JANUARY 15, 1919)

The first and indispensable step to be taken in order that the Board shall be able to settle industrial disputes is that the parties to the disputes shall have notice that the Board intends to hear the dispute and what the dispute is. They must know, further, when and where the hearing is to be held so as to have reasonable opportunity to present their evidence and to argue their cases.

The following rules of procedure are adopted as a simple method of bringing the parties before the Board and enabling them to know the exact issues in the dispute and to obtain a hearing thereon.

COMPLAINT NECESSARY TO JURISDICTION

Any person deeming himself aggrieved by another in an industrial dispute within the cognizance of the Board may invoke its jurisdiction, filing a complaint against that other. It can not be done otherwise.

WHO MAY BE COMPLAINANTS

When the complaint is made on behalf of employees

against an employer, it shall be filed by three employees for and on behalf of all claiming the same grievances. If the grievance alleged is unjust discharge, those discharged may file the complaint as recent employees of the respondent. If the shop is one in which the employer contracts with a union, the union may file a complaint against the employer, but it shall associate with it as party complainants and signers of the complaint at least three employees of the respondent as in other cases.

When the complaint is made on behalf of an employer, he shall sign the complaint. If he is a member of an employers' association having a contract with a union, which is the subject matter of, or affects, the controversy, he may join with him as a party complainant such employers' association and may name as respondents not more than three of his employees, present or recent, as representatives of all, and the union with whom the contract was made.

COMPLAINT SHALL COVER ONLY DISPUTES BETWEEN ONE EMPLOYER AND HIS EMPLOYEES

No complaint shall cover more than the disputes between employees and their employer in one shop or series of shops owned by the same employer. Should the same dispute develop in different shops owned by different employers, the cases may, with consent of the parties, be united for the purpose of taking evidence and for hearings, but separate complaints must be filed and docketed, separate summons be issued and served, and all further steps taken in each separate case and separate conclusions reached and separate awards or recommendations made.

CONTENTS OF COMPLAINT

The complaint shall be in a form approved by the Board and shall be a written petition to the Board for its aid in the just settlement of a dispute between employer and employees. It shall set forth the name and post-office address of the party or parties complainant and the party or parties respondent. It shall set forth in brief narrative form the facts and circumstances of dispute, and close with a prayer for that action by the Board to which the complaining party or parties believe themselves entitled under the principles of the Board and which will afford a just remedy. If the

party filing the complaint is a corporation, or a union, the signature of the president, vice-president, treasurer, or secretary thereof shall be sufficient.

FORM OF COMPLAINT AGAINST EMPLOYEES

Every complaint filed by an employer against employees or a union shall be in the form following:

UNITED STATES OF AMERICA NATIONAL WAR LABOR BOARD

.....	} No.....
<i>Complainant</i>	
<i>v.</i>	
.....	
<i>Respondent</i>	

ORIGINAL COMPLAINT

(By employers)

1. We the undersigned make this complaint to your Honorable Board and hereby specifically agree to be bound by such recommendations or award as your Honorable Board may make in the premises, in accordance with the principles and procedure of the Board.

2. We hereby complain because:

(State in narrative form the grievances, relating to—)

- a.* Wages
- b.* Hours
- c.* Discrimination
- d.* Violations of existing agreements; or of governmentally fixed wage scale
- e.* Actual or threatened strikes
- f.* Coercive measures to induce employees to join union, or to induce employer to deal with a union
- g.* Curtailing maximum production
- h.* Any other violations of the principles of the National War Labor Board

3. We seek the following relief:

4. We make the attached questionnaire a part of this complaint.

.....

(Complaining employer or his duly authorized
 representatives sign on above lines)

Dated.....

(On second page of 4-page folio)

Questionnaire, accompanying and made a part of original complaint of employer.

The Board will take no action upon the complaint unless every question herein is answered.

- | | |
|--|------------------------|
| 5. Give name and address of all complainants. | Answer. |
| 6. How many employees do you employ? | Answer. Male
Female |
| 7. What employers' association do you represent, if any? That is, when, where, and how were you authorized to unite said association with you in this complaint? | Answer. |
| 8. How many and what classes of employees are affected by this complaint? | Answer. |
| 9. State just how the business affects the conduct of the war. | Answer. |
| 10. Have you a contract with your employees? | Answer. |
| 11. If so, attach a copy of such contract or contracts to this complaint. | Answer. |
| 12. Have your grievances been presented to the employees? | Answer. |
| 13. If so, when and how? | Answer. |

14. What steps have been taken to adjust the grievances complained of? Answer.
15. What was the result? Answer.
16. Do you know that the National War Labor Board will refuse to take jurisdiction of any controversy where there is by agreement or Federal law a means of settlement which has not been invoked? Answer.
17. Name and address of the respondents. Answer.

In witness whereof, we, the signers of the foregoing complaint, state that the facts in said complaint and questionnaire set forth are true to the best of our knowledge and belief.

.....

FORM OF COMPLAINT AGAINST EMPLOYERS

Every complaint filed by employees against employers, or by a union in cases where a union may be the complainant, shall be in the following form:

UNITED STATES OF AMERICA NATIONAL WAR LABOR BOARD

.....	} No.....
<i>Complainant</i>	
<i>v.</i>	
.....	
<i>Respondent</i>	

ORIGINAL COMPLAINT (By employees)

1. We, the undersigned, being at least three employees

or recent employees of the respondent, on behalf of ourselves and all others similarly situated and having like grievances, make this complaint to your Honorable Board, and we hereby specifically agree to be bound by such recommendations or award as your Honorable Board may make in the premises, in accordance with the principles and procedure of the Board.

2. We hereby complain because:

(State in narrative form the grievances relating to—)

- a. Wages
- b. Hours
- c. Discrimination
- d. Violations of existing agreements
- e. Actual or threatened lockout
- f. Collective bargaining
- g. Working conditions
- h. Any other violations of the principles of the
National War Labor Board

3. We seek the following relief:

4. We make the attached questionnaire a part of this complaint.

Signed at, State of, on
the day of, 19...

.....
.....
.....
.....
.....

(Complaining employees or their duly authorized
representatives sign on above lines)

(On second page of 4-page folio)

Questionnaire, accompanying and made a part of original
complaint of employees.

(The Board will take no action upon the complaint unless
every question herein is answered. If you can not answer
definitely, say "I don't know.")

5. Give names and addresses of all Answer.
complainants.

- | | |
|--|------------------------|
| 6. State occupation and length of service of each complainant. | Answer. |
| 7. How many employees do you represent? | Answer. Male
Female |
| 8. By what authority do you represent them; that is, when, where, and how were you appointed? | Answer. |
| 9. How many and what classes of employees are affected? | Answer. |
| 10. State just how the business affects the conduct of the war. | Answer. |
| 11. Have you a contract with your employer? | Answer. |
| 12. If so, attach a copy of such contract or contracts to this complaint. | |
| 13. Have your grievances and requests been presented to the employer? | Answer. |
| 14. If so, when and how? | Answer. |
| 15. What steps have been taken to adjust the grievances complained of? | Answer. |
| 16. What was the result? | Answer. |
| 17. From what date do you ask that the decision of the Board take effect, and why? | Answer. |
| 18. Do you know that the National War Labor Board will refuse to take jurisdiction of any controversy where there is by agreement or Federal law a means of settlement which has not been invoked? | Answer. |
| 19. Name and address of the employer. | Answer. |

In witness whereof we, the signers of the foregoing complaint, state that the facts in said complaint and question-

naire set forth are true to the best of our knowledge and belief.

.....

IMPERFECT COMPLAINT

Communications seeking settlement of industrial disputes by the Board which do not substantially comply with the forms hereinbefore set forth shall be returned by the Director of Procedure to those signing them. He shall inclose a blank form of formal complaint, a copy of these Rules of Procedure, a copy of the principles of the Board, and a copy of the President's proclamation.

COMPLAINTS IN CASES OF REFERENCES OF DISPUTES TO BOARD BY THE SECRETARY OF LABOR OR OTHER DEPARTMENT OF THE GOVERNMENT

When an alleged controversy is referred to the Board by the Secretary of Labor, or other governmental department or Federal adjustment agency, the Director of Procedure shall require a formal complaint to be filed as herein provided, and the case shall then proceed as tho the complaint had originally been made to the Board.

COMPLAINTS IN JOINT SUBMISSIONS

In cases of joint submission, including those referred from other departments or Federal adjustment agencies, complaints must be filed as in other cases by one of the parties against the other, for the purpose of setting out clearly and succinctly the issues in dispute. The Director of Procedure may presume in such cases, in the absence of information to the contrary, that the original complaining parties are the employees and notify them to file a complaint in the proper form.

APPEALS FROM AWARDS OF OTHER GOVERNMENT BOARDS

In cases where appeals from department adjustments and arbitrations are within the jurisdiction of the Board, or are brought within it by reference from the head of any department, the officer or tribunal from whose decision appeal is taken shall prepare the record of the hearing before

him, including all the evidence considered by him and the statements of claim by the parties, together with his award and his reasons therefor, and transmit the same to the Secretary of the Board, together with the letter of reference by the head of department, if any. The Director of Procedure shall place the appeal as a case upon the docket under its proper number and file the record, award, and reference in its appropriate place, entitling the same with the names of the parties complainant and respondent and marking the same "Appeal from — Dept." In case of appeals no formal complaint on the appeal by either party need be filed.

As soon as the appeal is filed, a notice should issue by registered mail to all parties advising them of the pendency of the appeal, and that they must be ready for a hearing before the Board, or a Section thereof, at a day fixed at least seven days after the sending of such notice. In cases of emergency the Board, or the Standing Committee, may direct the Secretary to notify the parties by telegram to appear sooner, if practicable.

NOTICE TO ISSUE

Upon every complaint filed in form as herein prescribed, a notice shall issue informing the respondent that the complainants have filed a complaint against him, with a copy of the complaint, copy of these Rules of Procedure, copy of the President's proclamation, and blank form for his answer, inclosed. The notice shall direct him to file an answer within seven days after service, and shall be in form approved by the Board.

FORM OF NOTICE

The form of the notice which is hereby approved shall be as follows:

UNITED STATES OF AMERICA		
NATIONAL WAR LABOR BOARD		
.....	} Docket No.....	
v.		
.....		
To	} Respondent	
Respondent		

You are hereby notified that has

filed a complaint against you, a copy of which is hereto attached.

Your answer upon the inclosed form should be filed within seven days from receipt hereof. In case of your failure to file an answer, the Board may, as a board of mediation, in accordance with its rules of procedure, set a date for hearing, make its findings and decision as to what in its judgment is a fair and equitable adjustment of the dispute.

DONE UNDER AND BY AUTHORITY of the proclamation of the President of the United States of America, duly issued the eighth day of April, in the year of our Lord one thousand nine hundred and eighteen.

WITNESS THE HANDS of the Joint-Chairmen of said National War Labor Board at the City of Washington, D. C., this day of A. D. 191....

WM. H. TAFT,

BASIL M. MANLY,

Joint-Chairmen.

Countersigned:

Service accepted this day of 191..

SERVICE OF NOTICE

The service of notice may be made by mailing it by registered mail, with a copy of the complaint, blank for answer, copy of proclamation of the President of April 8, 1918, and copy of Rules of Procedure of Board, to the post-office address of the respondents as given in the complaint, and the register receipt shall be retained in the office of the Secretary and filed with papers as evidence of proper service. Where service should be made with greater dispatch, an examiner or any other employee of the Board may serve the same upon the respondents. A return by him of such service, at the usual place of business or residence of the respondents, or upon them personally, shall constitute a sufficient service, and shall be evidenced by the certificate of the server, signed by him with his official designation. A service may be made by any notary public, by a sheriff or marshal or his deputies, who shall make a due return of such service. If the respondent will accept service in writing, this shall dispense with the necessity of further

proof, and the written acceptance shall be filed with the papers in the case and noted on the docket.

Every return of service shall state the day and hour of service, and if the service is not personal, the place at which a copy of the notice and copy of the complaint were left.

NOTICE AND SERVICE IN CASES OF JOINT SUBMISSION AND REFERENCES TO DEPARTMENTS

As already indicated, complaints must be filed in cases of joint submission and in cases referred to the Board by governmental departments, or Federal adjustment agencies, and upon such complaints notice shall issue and be served as in other cases.

ANSWERS

A respondent duly served or waiving service as above shall answer the complaint within seven days after receiving the same, by mailing within this time an answer conforming to the following form:

UNITED STATES OF AMERICA		
NATIONAL WAR LABOR BOARD		
<div style="text-align: right; padding-right: 20px;"><i>Complainant</i></div>	v.	<div style="text-align: right; padding-right: 20px;"><i>No.</i></div>
<div style="text-align: right; padding-right: 20px;"><i>Respondent</i></div>		<div style="text-align: right; padding-right: 20px;"><i>Dated</i></div>

RESPONDENT'S ANSWER

Now comes the respondent named in the above-entitled case and answering the complaint, says:

A

The respondent {admits
denies} that the National War Labor Board has jurisdiction over the matters set forth in the complaint. (If jurisdiction is denied, state reasons why.)

.....

B

The respondent $\left\{ \begin{array}{l} \text{admits} \\ \text{denies} \end{array} \right\}$ that the business done at the plant affects the conduct of the war.

C

The respondent answers to the merits of the various allegations set forth in the complaint and questionnaire, admitting or denying the same seriatim, as follows:

D

The respondent sets forth new matter of defense, as follows:

E

The respondent submits this controversy to the National War Labor Board as an arbitrator, in accordance with its principles and procedure, and hereby agrees to be bound by its award on the following issues:

Respectfully submitted.

.....

(Duly authorized agent sign above)

EFFECT OF FAILURE TO ANSWER

Should the respondent file no answer, or should he decline to accept arbitration by the Board upon one or more issues raised, the case shall proceed and a hearing be had upon the evidence of the complainant only, if the respondent does not choose to produce evidence on his behalf, or upon the evidence introduced by both sides. The mere producing of evidence by a respondent on the issues shall not be regarded as a submission to arbitration by the Board.

NOTICE OF HEARINGS

All parties shall be given at least seven days' notice of the time and place of any hearing. The person serving or giving such notice shall make return in writing of the method of notification.

HEARINGS

At all hearings before the full Board, before a Section of the Board, or before examiners appointed to hear the case,

evidence may be introduced by oral testimony of witnesses or by depositions. Should the Board, Section, or examiners deem cross-examination necessary in case of deposition, the deponent should be summoned for the purpose and the deposition not considered as evidence until such cross-examination has been had. All testimony of witnesses shall be taken under oath or affirmation. Examiners, Sections of the Board, and the full Board shall have power to administer such oaths or affirmation.

HEARINGS BY EXAMINERS

The hearing by the examiner shall be conducted in accordance with the proper course of judicial proceedings. The evidence for the complainant shall be presented, then the evidence for the respondent, and then the evidence, if any, in rebuttal. The examiner shall follow as near as may be the rules of evidence prevailing in common-law courts, with such departures therefrom as in his discretion may seem to be necessary in the cause of speedy justice. The examiner shall require witnesses to confine their testimony to statements of facts within their personal knowledge. The examiner may exercise the authority to exclude evidence palpably incompetent or irrelevant to the issue. But the party aggrieved by such ruling may save his exceptions to such exclusion of evidence or other ruling by the examiner by a writing filed with the examiner. Should the examiner deem the evidence of any person necessary who is not called by either party, he may summon such person, examine him, and permit cross-examination.

CONTINUANCES

The hearing, due notice of which has been given both sides, shall proceed until the case is closed. Should either party desire a continuance on the ground of inability to produce witnesses, and make a showing of due diligence, it shall be within the discretion of the examiner to grant such time as may be reasonably necessary to procure the evidence. It is of the utmost importance, however, that cases brought before the National War Labor Board should be promptly decided, and therefore this discretion to continue cases or hearings should be sparingly exercised. When the evidence has been

all submitted, the examiner shall hear argument, and, if desired by the parties, may fix a time in which to submit briefs.

REPORT OF THE EXAMINER

Upon the conclusion of the hearing before him the examiner shall make a digest of the evidence and submit the same forthwith, but without making any findings or conclusions, to the Section or Board as the case may be. He shall attach thereto a copy of the complaint, proof of service, joint submission, answer, and a full transcript of the evidence, arguments, and exceptions taken to his ruling in order that the Section or Board considering the case may have the entire record before it.

ACTION UPON EXCEPTIONS TO EXAMINER'S RULINGS

In cases where exceptions have been taken to the examiner's rulings, the Section or Board may in its discretion grant a hearing upon said exceptions and act thereon.

ACTION BY THE SECTION

If the form of the submission shall be to the members of the Section as arbitrators to make a final award, the Section, if the members are in agreement, shall proceed to make such an award without reference to the Board. The administration of such awards shall be the same as in awards of the full Board. When a case has been assigned to a Section and the parties in interest shall have agreed that the decision of the Section shall be the decision in the case, then the Section shall proceed and make its findings, and if the Section can not agree the case shall go to the full Board.

REPORT OF THE SECTION

In all other cases submitted to a Section and in which they have reached an agreement, a report shall be made of their findings and conclusion to the Board for its action.

ACTION OF THE BOARD

Upon the presentation of a report by a Section the Board shall consider the same and approve or reject it.

DISAGREEMENT OF MEMBERS OF THE SECTION

If the members of the Section can not agree upon a report,

each shall make his individual report and the Board shall consider the case on both reports and take such action as it may deem wise.

DIFFERENCE OF OPINION IN THE BOARD

In cases in which the parties have submitted to the full jurisdiction of the Board and the Board is not unanimous in its findings and conclusions as to a just award, the name of an umpire shall be agreed upon by unanimous vote, or failing that, shall be drawn by lot from a list of names furnished by the President to the Board in accord with the rules of procedure approved by the President in his proclamation of April 8, 1918.

In cases in which the parties defendant do not submit to the full jurisdiction of the Board, or to its jurisdiction to make an award, the principles of the procedure of the Board do not require an umpire and in such a case the action of the Board shall be determined by a majority vote and the recommendation of the Board made accordingly. The finding and recommendation shall be published with such a dissent of the minority as may be presented to the Board. In case the Board divides evenly, the case shall stand as undecided.

AWARDS

The Section shall report in full the form of the award which it recommends for adoption. If it shall seem to the Section that the evidence before it is not sufficiently specific to enable it to dispose of all the issues, it may dispose of part and postpone the rest for a further action.

An award may provide for the appointment of an administrator, when it covers the settlement of complicated matters, and if it does provide for such administrator he is authorized to interpret and apply the award as between the parties when they disagree as to its meaning and application.

ADMINISTRATORS' RULINGS AND APPEALS THEREFROM

Administrators authorized to interpret and apply the award shall make their decisions in writing and serve copies thereof on the parties. Should either party feel aggrieved by the Administrator's decision, he may appeal to the Board, and

the appeal shall be heard by the Section which acted in the case, and the decision of the Section on such appeal shall be reported to and acted upon by the Board. Pending the appeal from the decision of the Administrator, his decision shall be enforced, except in cases where it involves directly or indirectly the payment of wages. In such cases, the filing of the appeal with the Administrator or Board shall operate as a stay. The administrator shall prepare the record for appeal in such cases with the utmost dispatch and forward it to the Chief Administrator for immediate submission to the Section which acted in the case. The appeal shall be heard by the Section as soon as possible.

REHEARINGS

A motion to the Board for a rehearing must be made within thirty days after the recommendation or the award and service of notice upon the parties. The motion for rehearing shall set out the grounds for the same specifically and may be granted either because the award was beyond the jurisdiction of the Board, or because of a palpable mistake in the finding of fact, or in the application of the principles of the Board, or because of newly discovered evidence which might change the decision of the Board. On motion for a rehearing the parties may not, as a matter of course, have an oral hearing. The party moving the rehearing shall file a brief with his motion setting forth, with reasonable elaboration, the reason relied upon. If the motion is based on newly discovered evidence, it must appear that the evidence is not merely cumulative and that the party seeking the rehearing could not have produced the evidence by the exercise of due diligence at the time of the original hearing.

NOTICE OF AWARDS AND RECOMMENDATIONS

Immediately upon the making of awards or final recommendations, they shall be copied and a copy certified by the Secretary shall be sent by registered mail to each of the parties and the receipt therefor shall be filed with the papers and noted on the docket.

PROCEEDINGS BEFORE AN UMPIRE

The Umpire shall be notified of his selection and a time fixed for his hearing.

In proceedings before Umpires, the presentations shall be limited as follows:

Each side shall delegate not more than two members to present the case to the Umpire, and each side shall be limited in its oral presentation to one hour. The Umpire, however, may extend the time of hearing if in his judgment a longer time is required to make him fully familiar with the case.

ACTION UPON DECISION OF UMPIRE

The decision of the Umpire shall be regarded as the award of the Board, and notice of it served upon the parties as in other cases. The decision of the Umpire shall be made public only after it has been read and certified to by the Standing Committee or by the Board in full session.

NOTE.—The above procedure may be changed from time to time by a majority vote of the Board.—*Approved January 30, 1919.*

APPENDIX B

REPORT OF THE SECRETARY OF THE NATIONAL WAR LABOR BOARD FOR THE 12 MONTHS ENDING MAY 31, 1919

The National War Labor Board was created as part of the war machinery of the country and it is passing out of existence as the need for war machinery is passing. Its existence has covered a term of barely 13 months, only one-half of which was a period of active hostilities. The War Labor Board served as a means of adjusting labor disputes without stopping production of things essential to the conduct of the war, as a condition under which the board accepted cases was that work should continue without interruption while the case was being considered by the board.

DISPOSITION OF CASES

From April 30, 1918, to May 31, 1919, the date of this report, the board has received 1,270 cases, 25 of which were consolidated with other cases, leaving 1,245 separate controversies which had to be passed upon by the board. Of these 1,245 cases, 706 (57 per cent) have been referred to other agencies having primary jurisdiction or have been dismissed because of voluntary settlement, lack of jurisdiction, or for other reasons; 77 (6 per cent) are pending or remain on the docket as undisposed of because of divided vote or suspension; while in the remaining 462 cases (37 per cent) awards or findings have been handed down. In addition the board made 58 supplementary decisions in cases where action had already been taken, making a total of 520 formal awards or findings. This record within a period of less than thirteen months is one which unquestionably has never been approached by any similar agency in the history of industry.

An analysis of the disposition of the 1,245 cases referred to is given in the following table:

*Statement showing disposition of cases before the National
War Labor Board to May 31, 1919*

Complaints received:

Joint submissions	193
Ex parte	1,052
Total	1,245

Disposition of cases:

Awards and findings made.....	¹ 462
Dismissed	391
Referred	315
Pending	23
Remaining on docket because board unable to agree	² 53
Suspended	1
Total	1,245

¹ Not including 58 supplementary awards, etc., in cases in which action had already been taken.

² These 53 cases represent actually only. 3 case-groups, as one of the case-groups involves 51 docket numbers.

As to the 315 cases which were received by the board and referred to other boards and agencies having original jurisdiction, the following table shows the number referred to each specified agency:

Number of cases referred to each specified agency

Department of Labor, Division of Conciliation.....	164
Department of Labor, Employment Service	1
Railroad Administration, Division of Labor.....	13
Navy Department	6
Treasury Department	1
Post Office Department.....	8
Emergency Fleet Corporation, Industrial Relations Di- vision	4
Emergency Fleet Corporation, Labor Adjustment Board	6
War Industries Board	3
War Labor Policies Board.....	1
Fuel Administration	6

Federal Oil Inspection Board.....	1
War Department, various	24
War Department, Quartermaster General	8
Army Ordnance, Industrial Relations Section.....	29
Signal Corps and Aircraft Production Board.....	20
Board members	10
Officers of international unions.....	10

Total 315

It will be seen from the foregoing analysis that more than one-half of the complaints referred were sent to the Division of Conciliation of the Department of Labor with the object in view of having the differences adjusted, if possible, without recourse to formal proceedings before the board.

Of the cases removed from the docket of the board without action by formal award or finding, the greater number were dismissed without prejudice because of lack of prosecution or because the board was advised that the parties involved had entered into a formal agreement and no further action by the board was necessary. The following table shows in detail the number of cases removed for each reason specified:

Cases removed from docket for reasons specified

Lack of jurisdiction	93
Lack of agreement	11
Lack of prosecution	159
Voluntary settlement between parties.....	116
Withdrawal	12

Total 391

It should be noted that cases removed from the docket required in many instances as careful consideration by the board or its staff as those cases in which formal awards or findings were made.

ANALYSIS OF THE WORK OF THE BOARD BY MONTHS, MAY, 1918, TO MAY, 1919

An interesting insight into the volume of work which might have been developed by the board had not the armi-

stice been signed is set forth in the following table, which furnishes a review of the work of the board by months during the 13 months ending with May 31, 1919:

Month	Cases placed on docket			Awards and findings made				
	Joint submissions	Ex parte	Total	Industrial	Public utilities	Total	Supplementary actions	Total actions
May								
to July	38	208	246	13	21	34	....	34
August ..	29	96	125	4	....	4	....	4
September	39	180	219	8	....	8	2	10
October ..	18	133	151	14	12	26	3	29
November	24	251	275	17	21	38	3	41
December	13	55	68	17	8	25	9	34
January ..	9	78	87	43	12	55	10	65
February .	3	70	73	35	12	47	6	53
March ...	15	1	16	114	7	121	11	132
April	1	4	5	79	9	88	11	99
May	4	1	5	15	1	16	3	19
Total..	193	a1,077	a1,270	359	103	462	58	520

a Including 25 docket numbers consolidated

The rapid expansion of the work of the board during the period of actual hostilities is at once apparent from an examination of the foregoing table. At the time of the signing of the armistice the board had acted on 455 cases, but had made only about 72 formal awards and findings, due to the fact that special attention had been given to important cases involving the production of large quantities of munitions, ordnance, and essential war materials. After the signing of the armistice a resolution of the board provided that no new cases except joint submissions would be received by the board after December 5, 1918. Altogether there have been received during the six months since the armistice only 423 new cases, as compared with 847 cases

entered on the docket during the six months prior to the armistice. During the six months period since the armistice the board has acted on the 375 cases which were pending when the armistice was signed as well as approximately 400 new cases which have been docketed.

CHANGES IN PERSONNEL OF THE BOARD

The membership of the National War Labor Board as constituted at the time of its appointment was as follows:

William Howard Taft, joint chairman and public representative of the employers.

Frank P. Walsh, of Kansas City, Mo., joint chairman and public representative of employees.

For employers:

L. F. Loree, of the Delaware & Hudson Railroad Co.

W. H. Van Dervoort, of the Root & Van Dervoort Engineering Co., of East Moline, Ill.

C. Edwin Michael, of the Virginia Bridge & Iron Co., Roanoke, Va.

Loyall A. Osborne, of the Westinghouse Electric & Manufacturing Co.

B. L. Worden, of the Submarine Boat Corporation, Newark, N. J.

For employees:

Frank J. Hayes, of the United Mine Workers of America.

Wm. L. Hutcheson, of the United Brotherhood of Carpenters and Joiners.

Wm. H. Johnston, of the International Association of Machinists.

Victor Olander, of the International Seamen's Union of America.

Thomas A. Rickert, of the United Garment Workers.

These appointments of the Secretary of Labor were approved and affirmed by the President of the United States by a proclamation issued April 8, 1918.

The following appointments and changes in personnel have taken place:

W. Jett Lauck, economist, of Chevy Chase, Md., to be permanent secretary, May 9, 1918.

Thomas J. Savage, of the International Association of Machinists, to be alternate for Mr. Johnston.

T. M. Guerin, of the United Brotherhood of Carpenters and Joiners, to be alternate for Mr. Hutcheson, May 13, 1918.

F. C. Hood, of the Hood Rubber Co., Watertown, Mass., to be alternate for Mr. Loree, May 17, 1918.

C. A. Crocker, of the Crocker-McElwain Co., Holyoke, Mass., to be alternate for Mr. Worden, June 1, 1918.

F. C. Hood, alternate for Mr. Loree, to become principal on the resignation of Mr. Loree, June 1, 1918.

John F. Perkins, of the Calumet-Hecla Copper Co., to be alternate for Mr. Osborne, June 1, 1918.

Frederick N. Judson, lawyer, of St. Louis, Mo., to be vice chairman and alternate for Mr. Taft, June 18, 1918.

John F. Perkins, alternate for Mr. Osborne, to be alternate for Mr. Hood, June 27, 1918.

H. H. Rice, of the General Motors Corp., Detroit, Mich., to be alternate for Mr. Van Dervoort, July 1, 1918.

Wm. Harman Black, lawyer, of New York City, to be vice chairman and alternate for Mr. Walsh, July 20, 1918.

Matthew Woll, of the International Photo-Engravers' Union, to be alternate for Mr. Olander, July 24, 1918.

John J. Manning, of the United Garment Workers, to be alternate for Mr. Rickert, July 24, 1918.

J. W. Marsh, of the Westinghouse Electric & Manufacturing Co., to be alternate for Mr. Michael, September 1, 1918.

On October 9, 1918, the board was notified of the death of Thomas J. Savage, and Fred Hewitt, of the International Association of Machinists, was designated alternate for Mr. Johnston, October 22, 1918.

F. C. Hood resigned as member of the board on November 19, 1918.

P. F. Sullivan, of the Bay State Street Railway Co., of Massachusetts, to be alternate for Mr. Osborne, December 3, 1918.

Frank P. Walsh, joint chairman, resigned as a member of the board on December 3, 1918.

Wm. Harman Black, vice chairman and alternate for Mr.

Walsh, resigned as a member of the board on December 3, 1918.

Basil M. Manly, journalist, of Washington, D. C., to be joint chairman, to fill the vacancy caused by the resignation of Mr. Walsh, December 4, 1918.

Wm. Harman Black, to be vice chairman and alternate for Mr. Manly, December 4, 1918.

John F. Perkins, alternate for Mr. Hood, to be a principal, to fill the vacancy caused by the resignation of Mr. Hood, December 4, 1918.

B. L. Worden resigned as a member of the board on December 9, 1918.

C. A. Crocker, alternate for Mr. Worden, to be a principal, to fill the vacancy caused by the resignation of Mr. Worden, December 11, 1918.

Harold O. Smith, of the J. and D. Tire Co., Charlotte, N. C., to be alternate for Mr. Crocker, January 17, 1919.

Granville E. Foss, of the Brightwood Manufacturing Co., North Andover, Mass., to be alternate for Mr. Perkins, February 11, 1919.

C. A. Crocker resigned as a member of the board on February 24, 1919.

Principal members and alternates appointed subsequent to the creation of the board were nominated and appointed in the same manner as were the original members, the date given above being the date of appointment or of entering upon duty.

EXECUTIVE SESSIONS OF THE BOARD

During the summer of 1918 and up to the time of the signing of the armistice in November of the same year, an executive session of the full board or its standing committee was held each week. The usual practise was for the standing committee to meet one week and the full board the following week, altho the pressure of work at times was so great as to require the full board to remain in session continuously for a longer period than a week. Altogether 104 days were devoted to executive meetings by the board during the year. This does not include the considerable periods which the board spent in conducting public hearings. As

almost all the members had other important duties to perform, the policy was adopted of each member appointing an alternate to represent him when his presence was required elsewhere, so that the adjustment of important matters before the board might not be delayed.

SCOPE OF BOARD'S AWARDS

A careful tabulation of the data in the files shows that up to May 22 the awards and findings of the board (excluding 11 for which the information is lacking) directly affected 1,084 establishments employing 669,496 persons, of whom 80,271 were employees of street railways. These numbers, it is to be emphasized, include only those persons who were specified directly in the terms of the decisions. In very many cases the decision was applied in practise to other employees of a plant than those in whose names the controversy was filed.

Of still more importance is the fact that very frequently a decision in regard to one company was accepted by other companies similarly situated. The information on this point is very limited, but it is known that in very many instances controversies were settled voluntarily or by other adjustment agencies on the lines laid down by existing decisions of the board. Thus it is known that the decision of the board in the Bridgeport case was accepted and applied in the plants of the Remington Arms Co. in other places; and that the street railway decisions have been the basis of voluntary adjustment in Philadelphia, Washington, and many other cities. Indeed the "principles" of the National War Labor Board as laid down by the Conference Board and as interpreted by the War Labor Board had a vastly wider influence and acceptance than indicated by any mere numerical statement of the persons directly affected by the decisions of the board. Other governmental adjustment agencies—such as the Industrial Service Section of the Ordnance and other branches of the War Department, as well as the labor adjustment divisions and boards of other procurement divisions of the Government—have used these principles and precedents as a manual in their own adjustment work. Moreover, the conciliators of the Department of

Labor, whose work during the war has been of far-reaching importance, averted many difficulties by citing the principles and precedents of the board to the parties in controversy and working out an adjustment thereunder.

Of special interest, also, is the large number of strikes and lockouts averted or called off as a direct result of the board's intervention. The exact number is unknown, but the records show at least 138 instances of this character.

ORIGIN OF CASES

The proclamation of the President creating the National War Labor Board conferred upon it jurisdiction in all controversies "in fields of production necessary for the effective conduct of the war, or in other fields of national activity, delays and obstructions in which might, in the opinion of the National Board, affect detrimentally such production."

The jurisdiction, as regards subject matter, thus conferred upon the board was extremely broad, inasmuch as in the reorganization of industry on a war basis there existed very few business activities which did not affect, directly or indirectly, the effective conduct of the war. This is indicated by the fact that the board dismissed fewer than 50 complaints on the ground that war production was not involved.

In practise, however, the jurisdiction of the board was greatly and desirably limited by the further provision of the proclamation that the board should refuse to take cognizance of a controversy "in any field of industrial or other activity where there is by agreement or Federal law a means of settlement which has not been invoked."

This provision excluded from the consideration of the board, except by way of appeal, large groups of cases where the parties concerned had provided by voluntary agreement for other means of arbitration or where Federal law had provided other arbitration agencies. Thus, the vast ship-building industry had set up by agreement its own Labor Adjustment Board; the Ordnance Department and other producing departments of the Government had provided special industrial service sections to consider the complaints of their employees; and the coal mining industry had its

labor conditions controlled by agreement of all parties with the Fuel Administration. In this way, in a number of the most important industries, means of adjustment of disputes had been arranged for, and controversies therein could reach the board only on appeal. The procedure of the board provided, moreover, that appeals would be heard only on the ground that the principles of the President's proclamation had been violated, or that either party to an award had violated it, or to determine questions of jurisdiction as between Government boards. In no case was an appeal permissible on questions of fact.

The cases which came to the board on appeal from decisions of other boards were very few. Perhaps the most important of these was the New York Harbor case, which came up on appeal from the New York Harbor Wage Adjustment Board.

A very large number of cases, however, came to the board by way of reference from conciliation agencies—such as the Department of Labor—which had been unable to adjust the matters in controversy. Thus of the 462 cases in which the board made awards and findings almost exactly one-third came by way of reference from other agencies and two-thirds by way of direct complaint to the board. Most of the cases coming by reference were from the Department of Labor, but some of the most important were referred by the War and Navy Departments and had been previously handled by the Industrial Service Sections of these departments. Such were the St. Louis cases, the Bridgeport cases, the Worthington Pump case, the Smith & Wesson case, and the Newark, N. J., machinists' cases.

It is also of interest to note that of the complaints brought directly to the National War Labor Board about 12 per cent were made by employers or employers' associations; the remainder were made either by groups of employees or, in the case of union shops, by their union representatives.

EXECUTION OF AWARDS

The board was given no legal authority to enforce its decisions. In cases of joint submission the parties had, of course, the right of legal redress as in all cases of violation

of contract. Otherwise the execution of the board's decisions depended on the support of public opinion, the support of other governmental agencies, and the obligation laid upon employers and employees by their chosen representatives in the formation of the board and the drafting of its principles.

Particularly during the period of active hostilities, the powers of the procurement departments of the Government—such as the War and Navy Departments—were very great, and these powers, as well as the influence of the President himself, were consistently used in support of the awards of this board. The most striking cases of this kind were the Bridgeport and Smith & Wesson cases. In the former the President told the striking employees he would use the Federal Employment Service and other branches of the Government to their disadvantage if they did not accept the board's award. In the Smith & Wesson case, the War Department immediately took over the plant of that company when it refused to abide by the board's decision.

The outstanding fact, however, is that, as long as active war was on, the decisions of the board were accepted almost without exception both in *ex parte* cases and in cases of joint submission. Since the armistice, and more particularly since the first of the year, the changed industrial conditions, the questioning in some quarters as to the board's authority in the intermediate period between the armistice and the proclamation of peace, and the uncertainty in some minds as to the continued existence of the board, have combined to create a condition when the board's decisions have been less spontaneously accepted.

HEARINGS BY BOARD AND EXAMINERS

When the number of submissions to the board became so great as to render hearings by examiners necessary, such hearings almost entirely supplanted hearings before board members. In addition to the heavy requirement of considering the testimony secured by examiners, the board heard only cases of peculiar difficulty or listened to oral argument in cases in which the testimony had previously been submitted to examiners. In total there have been 488 hearings held by the board members and by examiners, hearings by examiners being 321, or 66 per cent of the total.

The hearings were distributed as follows:

Hearings held before—

Umpires	20
Full National War Labor Board.....	59
Recess or standing committee.....	6
Joint chairmen	46
Joint chairmen and section	2
Double section.....	1
Board and section.....	1
Sections	32
Examiners	321
<hr/>	
Total	488

During the months of greatest activity examiners' hearings averaged about 15 per week, and in view of the length of many hearings and their wide separation geographically, this involved the need of some 30 examiners. Usually the hearings were held at the place of controversy. This was done primarily for reasons of economy, as it was much less expensive to send an examiner with necessary assistants to another point than it was to pay the expenses of representatives and witnesses to Washington. The policy adopted was to assign only one examiner to a hearing, except in cases of particular difficulty or complexity; but this policy could not always be observed, owing to the need of breaking in new examiners, a process which could be best accomplished by sending a new man with a more experienced examiner, in order that he might get practical training.

SPECIAL FIELD REPRESENTATIVES

At the outset of the board's work it was thought that beneficial results might be obtained by having representatives, designated by the employers' and employees' groups, make preliminary investigations of complaints which were brought before the board. It was expected that these special field representatives might be successful in mediating or adjusting differences, or could prepare special reports as to the facts involved for the consideration of the board. Later, these special field representatives were instructed to assist

the parties to a controversy in preparing their cases for hearings. This procedure, while sound in theory, did not work out satisfactorily in actual practise, for the reason that it tended to extend or accentuate the original differences as to which complaints were made. As a consequence, in the procedure as finally adopted by the board, the use of special field representatives was discontinued.

ADMINISTRATION OF AWARDS

The policy of the board has been always to encourage to the greatest possible extent the self-administration of its decisions. In practise, however, even the best drawn awards almost always left room for divergent interpretations. If the differences were small, adjustment could be made by correspondence, but in case of major differences the sending of an examiner as an interpreter and administrator proved to be the only alternative to having the parties bring their difficulties direct to the board. The demand for such service was particularly acute in cases where an award provided for collective bargaining in a plant where collective bargaining had not previously existed. Often the parties in such cases were completely at a loss as to how to begin such a system, and imperatively needed counsel with some one familiar with the processes of installing shop-committee systems.

A large number of awards specifically provided that an examiner—or administrator, as he came to be called—should be sent to interpret the award. In addition, a great number of requests for administrators have been received in cases where the award did not specifically provide for the sending of an administrator, or where such action was contingent upon a request made by one or both parties. The number of administrators available has never been sufficient to meet all of the requests made. Moreover, the demand for the services of administrators has steadily increased as more and more decisions were rendered by the board, and at present there is a greater demand for such services than at any previous time.

In total, 180 awards and findings have been administered by the Department of Administration of Awards. Adminis-

trators have been present in person in 128 cases. The maximum number of administrators at the time of greatest activity was about 25.

The administration of the street railway awards was susceptible of a high degree of standardization. They had a common authorship—all of them were written by the joint chairmen; they related to a single industry of remarkably homogeneous character; and, usually, the employees were highly organized and both parties had been accustomed to collective bargaining.

The industrial awards, on the other hand, presented a bewildering variety of conditions, and have, in many cases, necessitated the installation of elaborate machinery for collective bargaining. A notable instance of this is the Bridgeport case, where over 60 establishments, employing 60,000 persons, were involved. It is of much interest to note that the local board of mediation and conciliation, established under this award, has been accepted by both parties as a permanent institution.

Another striking item in the history of the administrative work was the statement of officials of the Corn Products Refining Co. (Docket No. 130) to the administrator of the board, that the expense of the award to the company, amounting to a million dollars or more, was more than compensated for by the improved classification of occupations worked out by the board and its examiners and by the greater security of industrial relations secured by the award.

ORGANIZATION OF STAFF

One of the most burdensome duties laid upon the secretary was that of organizing a staff. In the first place there was the difficulty of securing capable assistants at a time when the pressure on the board for prompt action was greatest and when the man power of the country was in greatest demand for war purposes. More than balancing this, however, was the fact that the work offered in the service of the board was of a character to attract men of the highest grade. As a result, it is believed that the staff as finally organized was, as a whole, of exceptional capacity and merit.

A second and even more important difficulty was the uncertainty as to the character and amount of work which was to be intrusted to the staff. For the more or less routine duties—such as the Files and Docket, Buildings and Supplies, and Auditing Divisions—the work could be forecast with more or less accuracy, but the work of the judicial and administrative examiners—which in time became the most characteristic and important branch of the staff organization—was a matter of development and could not be anticipated at all fully. Thus at the start of its work it was the evident intention of the board, itself or by sections, to hear the parties to each controversy submitted to it. The rapid accumulation of cases submitted, however, soon made such a course physically impossible, and the policy was then adopted of employing a staff of judicial examiners who might take the testimony of parties for digesting and presentation to the board. This use of examiners, however, grew up slowly, through requests of the board and its sections in individual cases, and it was not until some two and a half months after the board's organization that definite authority was given the secretary to handle controversies in this manner.

Similarly as regards the department of administration of awards, the provision of administrators to interpret the board's decisions grew out of the necessities of the moment. The award in the Waynesboro machinists' case was the first recognition of the principle that the board in making an award retained jurisdiction and might assume the duty of helping both parties to put the award into effect. Slowly this became the accepted practise of the board, and as a result the need arose for a staff of special administrative examiners to aid the parties in interpreting and applying awards.

The maximum number of employees on the staff of the board was approximately 250. This point was reached immediately before the signing of the armistice. Since that time the staff has been constantly reduced in accordance with the decrease in the work before the board.

The responsibility and burden of the effective conduct of the work of the board have fallen particularly upon a number

of department heads and special assistants. The services of Mr. Hugh S. Hanna, who has acted since the beginning of the work of the board as chief examiner and general assistant to the secretary, have been invaluable. Others who have devoted themselves constantly and unreservedly to the work of the board and who should be especially commended are Prof. E. B. Woods, chief administrator of awards; Mrs. Everett W. Boughton, assistant to the secretary; Mr. J. W. Marshall, assistant to the secretary; Mr. Madison A. Dunlap, assistant to the secretary; Mr. E. Kletsch, chief, division of files and information; Miss Elizabeth A. Hyde, editorial clerk; Mr. Roy G. Bostwick, chief, complaint division; Mr. C. S. Watts, chief, division of investigation; Mr. Wyatt B. Angelo, assistant administrator of awards; Mr. W. P. Harvey, special representative, employees' group; Mr. I. A. Rice, special representative, employers' group; Mr. Charlton Ogburn, in charge of street railway cases; Mr. Arthur Sturgis, administrator, street railway cases; Mr. Francis X. Tyrrell, executive assistant; and Mr. W. F. Ogburn, in charge of the Cost-of-Living Division.

SPECIAL REPORTS

Detailed reports from the departments of the organization have been prepared, as follows:

1. Department of Procedure.
 - (a) Division of Complaints.
 - (b) Docket Division.
 - (c) Division of Public Hearings.
2. Files and Information.
 - (a) Files Division.
 - (b) Editorial Division.
 - (c) Publications Division.
3. Department of Examinations.
 - (a) Division of Investigation.
 - (b) Division of Analysis.
 - (c) Cost-of-Living Division.
4. Administration of Awards.

I have also had prepared four special reports which I have thought would be of interest and value to the board.

They are as follows:

1. The work of the public utilities division, by Charlton Ogburn.

2. Analysis of the awards and findings of the board, by Robert P. Reeder.

3. Principles and rules of procedure.

4. Organization and practise of the board.

Respectfully submitted.

W. JETT LAUCK,
Secretary.

APPENDIX C

LETTER FROM THE PRESIDENT OF THE UNITED STATES TO STRIKING EMPLOYEES AT BRIDGEPORT, CONN.

THE WHITE HOUSE,

Washington, 13 September, 1918.

GENTLEMEN: I am in receipt of your resolutions of September 6 announcing that you have begun a strike against your employers in Bridgeport, Conn. You are members of the Bridgeport branches of the International Union of Machinists. As such, and with the approval of the national officers of your union, you signed an agreement to submit the questions as to the terms of your employment to the National War Labor Board and to abide the award which in accordance with the rules of procedure approved by me might be made.

The members of the board were not able to reach a unanimous conclusion on all the issues presented, and, as provided in its constitution, the questions upon which they did not agree were carried before an arbitrator the unanimous choice of the members of the board.

The arbitrator thus chosen has made an award which more than 90 per cent of the workers affected accept. You who constitute less than 10 per cent refuse to abide the award altho you are the best paid of the whole body of workers affected, and are, therefore, least entitled to press a further increase of wages because of the high cost of living. But, whatever the merits of the issue, it is closed by the award. Your strike against it is a breach of faith calculated to reflect on the sincerity of national organized labor in proclaiming its acceptance of the principles and machinery of the National War Labor Board.

If such disregard of the solemn adjudication of a tribunal to which both parties submitted their claims be temporized

with, agreements become mere scraps of paper. If errors creep into awards, the proper remedy is submission to the award with an application for rehearing to the tribunal. But to strike against the award is disloyalty and dishonor.

The Smith & Wesson Co., of Springfield, Mass., engaged in Government work, has refused to accept the mediation of the National War Labor Board and has flaunted its rules of decision approved by presidential proclamation. With my consent the War Department has taken over the plant and business of the company to secure continuity in production and to prevent industrial disturbance.

It is of the highest importance to secure compliance with reasonable rules and procedure for the settlement of industrial disputes. Having exercised a drastic remedy with recalcitrant employers, it is my duty to use means equally well adapted to the end with lawless and faithless employees.

Therefore, I desire that you return to work and abide by the award. If you refuse, each of you will be barred from employment in any war industry in the community in which the strike occurs for a period of one year. During that time the United States Employment Service will decline to obtain employment for you in any war industry elsewhere in the United States, as well as under the War and Navy Departments, the Shipping Board, the Railroad Administration, and all other Government agencies, and the draft boards will be instructed to reject any claim of exemption based on your alleged usefulness on war production.

Sincerely yours,

WOODROW WILSON.

DISTRICT LODGE No. 55, INTERNATIONAL ASSOCIATION
OF MACHINISTS (and other striking workmen
of Bridgeport, Conn.),

1087 Broad Street, Bridgeport, Conn.

APPENDIX D

LETTER FROM THE PRESIDENT OF THE UNITED STATES TO MANUFACTURERS AT BRIDGEPORT, CONN.

THE WHITE HOUSE,
Washington, September 17, 1918.

My attention has been called to the fact that several thousand machinists and others employed in connection with war industries in Bridgeport, Conn., engaged in a strike to obtain further concessions because they were not satisfied with the decision rendered by the umpire appointed under the authority conferred upon the National War Labor Board. On the 13th instant, I communicated with the workmen engaged in the strike, demanding that they accept the decision of the arbitrator and return to work, and stated the penalties which would be imposed if they refused to do so. The men at a meeting voted to return to work this morning, but I am informed by their representative that the manufacturers refuse to reinstate their former employees. In view of the fact that the workmen have so promptly complied with my directions, I must insist upon the reinstatement of all these men.

WOODROW WILSON.

REMINGTON ARMS, U. M. C. PLANT, LIBERTY ORDNANCE
COMPANY (and others),
Bridgeport, Conn.

APPENDIX E
ORGANIZATION AND BY-LAWS
for
COLLECTIVE BARGAINING COMMITTEES
INSTITUTED BY THE
NATIONAL WAR LABOR BOARD
FOR BRIDGEPORT, CONN.

FOREWORD

The following plan including the Organization and By-Laws for industrial committees is submitted as a means of developing a clearer understanding of the mutual problems appertaining to the Company and its Employees, which it is hoped to obtain by means of a free interchange of opinions and suggestions in the Committee meetings on all matters of mutual concern and interest within the business.

None of the provisions of this plan is to be construed as curtailing the authority or lessening the responsibilities of any executive or committee of executives of the organization, or of the Officers or Board of Directors of the Company.

A

ORGANIZATION

EMPLOYEES' DEPARTMENT COMMITTEES
ELECTIONS

- (1) Employees' Department Committees shall consist of three employees who have actually worked in the Department or Section of the Plant involved for a period of three (3) months immediately preceding election. There shall be such a Committee for each Department or Section in charge of a Foreman or Forelady.
- (2) Said Committee shall be elected by the direct vote of the employees. Each employee of any Department shall have the privilege of voting for three fellow employees as his or her choice for said Committee

Membership. The three employees receiving the highest number of votes shall be declared elected.

- (3) Notice of all said elections must be either delivered to each employee in the Department or Section involved, or said Department or Section must be adequately placarded with posters; said notices or placards must fully explain the purposes and conditions of said elections and they must be distributed or posted at least one full week prior to the date of actual election.
- (4) The Judges of Election for the first election shall be an Examiner or other nonpartisan Representative of the National War Labor Board and two or more employees chosen by him from the Department or Section involved, one of whom shall be, whenever possible, the timekeeper of the Department who will serve as checker of those voting, or some employee qualified to recognize the employees voting as bona fide employees of that Department. Such Judges shall hold the election, count the votes, certify the returns, and announce, at the earliest possible hour, the names of those elected.

Employee Judges shall have been employed in the Department or Section involved for at least three (3) months immediately preceding election.

The Judges of Election shall have final decision as to all questions arising at the time of and in connection with said elections except that they shall be guided and governed by the conditions of said elections as set forth upon said notices or posters, which shall be in full accord with the organization plan and by-laws.

- (5) The Employee receiving the highest number of votes in each such election shall be declared the Chairman of the Committee; but in case of a resignation as Chairman, the Committee elected shall have the right of choice.
- (6) Where both men and women are employed in a Department or Section, proper representation upon its Committee shall be guaranteed to both.
- (7) The first election shall be held at such time as the

Administrative Examiner shall decide, and at such place as in his opinion the greatest number of votes of the eligible employees would be obtained. Such employees will be given a printed ballot and a free opportunity to vote in accordance with their wishes and choice. The privilege of an absolutely secret ballot shall be guaranteed and enforced.

- (8) During the actual time covered by the elections, all Foremen, higher officials, employees of other Departments and non-employees shall absent themselves from the place of election, except for good and sufficient reason under the personal supervision of the National War Labor Board's Representative.
- (9) Where a tie occurs for the last place, or where a tie occurs for the Chairmanship of a Committee, such tie shall be decided by lot by the Judges of the Election. If there shall be a complete tie, the employees thus elected shall choose their own Chairman.

B

EMPLOYEES' GENERAL COMMITTEES

ELECTIONS

- (10) In addition to said Department Committees, there shall be instituted for each Plant an Employees' General Committee composed of the Chairmen of all the Department Committees, except that any plant in which the number of employees is such that only one Department Committee is chosen shall have no general or executive committee.
- (11) If the number of any General Committee as originally constituted is too large for efficient working, said Committee shall meet as soon as practical after the election of the Department Committees and proceed to elect from their own number an Executive Committee, to be technically known as the Employees' Executive Committee, which shall be vested with the

- duties and powers of said General Committee, except those reserved for the Committee as a whole.
- (12) Whenever at the initial election it is found advisable to elect an Executive Committee, said General Committee shall be called together by the Administrative Examiner and presided over, for this one purpose only, by an Examiner, or other nonpartisan Representative of the National War Labor Board who shall see that the election of said Executive Committee is conducted in accordance with such instructions as the Administrative Examiner may issue in order to insure a fairly elected and representative Executive Committee.
 - (13) Said Executive Committee shall consist of three, five, seven or nine employee members, the number for each Plant to be determined, preceding the first Election, by the Administrative Examiner.
 - (14) Each General and Executive Committee shall elect from its own members, by a majority vote, a permanent Chairman.
 - (15) Where General Committees are hereinafter referred to it shall mean Executive Committees, wherever such have been elected, unless otherwise specifically indicated.

BY-LAWS

A

EMPLOYEES' GENERAL COMMITTEES

POWERS AND FUNCTIONS

- (16) Department Committees, upon request, may adjust with a like or less number of the Management's Representatives, by agreement, all questions arising in their respective departments which the individual employees were unable to settle by direct negotiation with their foremen.
- (17) Department Committees may, and should, refrain from

referring to the Management all questions presented by request, or otherwise, from individual employees, which upon investigation by said Committee are found to be without merit.

- (18) Department Committees, upon direct presentation individually or collectively, by employees of their respective Departments, may adjust with the Management, by agreement, all questions of mutual interest.
- (19) Department Committees may initiate and adjust with the Management, by agreement, any and all matters affecting or appertaining to the employees, individually or collectively, of their respective Departments.
- (20) Department Committees may take up of their own accord, or upon request by the Management, such problems as the conduct of employees, individually or collectively, and thus endeavor to increase production and cooperation.
- (21) Department Committees may adjust with the Management, by agreement, whether presented by appeal, reference or initiation, all questions in reference to the correct and proper application of the Bridgeport Award, including the Rulings and Interpretations thereof, as made by the Local Examiner, to the employees, individually or collectively, of their respective Departments, with the proviso that the rights of appeal guaranteed by the Award, including said Rulings and Interpretations, shall not be in any way denied. Power to alter, change, or add to the rulings and interpretations of the Award as made by the Local Examiner is not vested in any committee.
- (22) Department Committees shall not have Executive or veto powers, such as the right to decide who shall, or shall not, be employed; who shall, or shall not, be discharged; who shall, or shall not, receive an increase in wage; how a certain operation shall, or shall not, be performed, etc.
- (23) The individual members of Department Committees are, and shall remain under the same rules and regulations as the other employees.
- (24) Department Committees are restricted to the adjust-

ment of matters only within their jurisdiction, as outlined under the Organization and By-Laws, by agreement, with their Managements. The obligation to promptly put into effect all matters agreed upon is placed entirely upon the Management.

- (25) Department Committees may, by mutual consent of the representatives of the Management, consider and have put into force, by agreement, any matter not otherwise specifically covered in these By-Laws.
- (26) Members of Department Committees shall serve for one full year, or until their successors are elected.
- (27) Any vacancy, or vacancies, in the membership of a Department Committee shall be filled by a special departmental election.
- (28) After the initial election under the supervision of the Examiner of the National War Labor Board, rules for subsequent elections, and any general rules or regulations pertaining to Department, General, and Executive Committees, may be decided by a two-thirds vote of the entire membership of the Joint Executive Committee, or General Committee wherever an Executive Committee was not elected.
- (29) No employee shall be eligible to membership on a Department Committee, nor to appointment as Judge of Election, who has not been continuously in the employ of the Department involved for at least three (3) months immediately preceding the election; provided, however, that if there shall not be at the time of the election at least six employees of three months standing, said three months service qualification shall be omitted.
- (30) Employees desiring to have their Department Committee act for them, individually or collectively, whether as an appeal from a decision of their foreman, or as a direct presentation, shall file their case with the Chairman of said Committee in writing and signed, if practicable; otherwise, the Chairman of the Committee shall reduce same to writing. These matters shall be transacted on the premises outside of working hours.

- (31) The Chairman of Department Committees shall accept for consideration all cases filed as provided under Section 30.
- (32) The Chairman of any Department Committee shall call a meeting of the Committee at such times and places as the circumstances demand, for the consideration of such cases as have been filed, and also of such matters as the Committee contemplates initiating. Such meeting shall be held on the premises but not during working hours, or on Company time, except upon consent of the Management.
- (33) Whether cases, or matters, considered in accordance with the provisions of Section 32 shall be taken up with the Management, shall be decided by a vote of the Committee. Two votes for, or against, any proposition shall decide and no reference or appeal to the joint Department, Executive, or General Committee can thereafter be made.
- (34) Whenever it is desirable for a Department Committee to meet with the Management for the presentation and consideration of prepared cases or other matters, the Chairman of said Committee shall request through the Foreman of the Department involved, a joint Conference with such Representative or Representatives as the Management shall designate for this purpose, not to exceed in number the membership of said Department Committee. Such request shall be accompanied by a specification in writing of the matters to be considered.
- (35) The Management shall meet with such Department Committee in a Joint Conference upon the date requested, or, if for any reason this is impracticable, upon one of the next six days thereafter mutually agreed upon, not counting Sundays and Holidays.
- (36) Any Management shall have the privilege of calling a Department Committee to a Joint Conference by the method set forth in Sections 34 and 35.
- (37) The Chairmanship of each Joint Conference shall alternate between the Chairman of the Department Committee and the Spokesman for the Management's Representatives.

- (38) All Joint Conferences shall be held immediately following the close of the day's work upon the date fixed, unless by unanimous vote some other date is fixed, either in the Department involved, or in some suitable room convenient thereto provided by the Management for this purpose. Joint Conferences may be held on Company time by consent of the Management.
- (39) Joint Conferences shall be private except where witnesses may be called. Full and free opportunity shall be granted to all present to discuss, from every angle and viewpoint, all cases and matters presented by either side at each Joint Conference.
- (40) Immediately following discussion of any issue at a Joint Conference, a vote shall be taken upon the question at issue and a majority of two votes of the entire membership of the joint committee shall decide; that is five votes out of a joint committee of six shall control.
- (41) When an agreement has been reached the case or matter in issue is settled beyond appeal, and shall be promptly adjusted in accordance therewith.
- (42) When no agreement has been reached, the Chairman of the Joint Conference, unless such case be withdrawn by the party proposing the action, shall immediately refer in written form the case or matter in issue to the Chairman of the Employees' General Committee for presentation, discussion, consideration and disposition at a Joint Conference between said Employees' General Committee and a like or less number of the Management's Representatives.
- (43) A record of proceedings of all Joint Conferences shall be made, signed by all members present.
- (44) Annual elections for members of Department Committees shall be held during November of each year.

B

EMPLOYEES' GENERAL COMMITTEES

POWERS AND FUNCTIONS

- (45) General Committees in Joint Conference with the Management's Representatives shall review all cases and matters not settled in a Joint Conference between the Department Committee and the Management, unless such case be withdrawn by the party proposing the action.
- (46) General Committees as a whole, in cooperation with the Management's Representatives, shall hold annual or special elections for members of the Department Committees, in accordance with the above Organization Rules and Regulations, and such amendments thereto as may be decided upon by a two-thirds vote of the entire membership of the Joint Executive Committee, or Joint General Committee wherever an Executive Committee was not elected.
- (47) General Committees, as a whole, shall have the right to fill by election from its members any vacancy occurring in their Executive Committees.
- (48) General Committees are not vested with Executive or Administrative authority, except as specified in Section 46.
- (49) General Committees are restricted to the adjustment of matters only within their jurisdiction, as authorized under the Organization and By-Laws, by agreement, with the Management. The obligation to promptly put into effect all matters agreed upon is placed entirely upon the Management.
- (50) Members of the General Committees shall serve for one year, or until their successors have been elected.
- (51) Vacancies in General Committees as a whole are automatically filled by the new Chairman of the Department Committees from which the outgoing members originally came.
- (52) The right of a General Committee, and also of the

Representatives of the Management, to initiate and discuss in a Joint Conference any matter appertaining to the plant as a whole is hereby granted.

METHODS OF PROCEDURE

- (53) Whenever the Chairman of a Joint Conference between a Department Committee and the Management shall refer in written form any unadjusted case or question to the Chairman of a General Committee, the latter shall promptly turn the original or copy thereof over to the designated Spokesman of the Management's Representatives, together with a request for a Joint Conference on some specific day.
- (54) The Management shall meet with such General Committee in Joint Conference upon the date requested, or, if for any reason, this is impracticable, upon one of six days thereafter mutually agreed upon, not including Sundays or Holidays.
- (55) Any Management shall have the privilege of calling a General Committee to Joint Conference by the method set forth in Section 53.
- (56) The Chairmanship of each Joint Conference shall alternate between the Chairman of the General Committee and the Spokesman for the Management's Representatives.
- (57) All Joint Conferences shall be held immediately following the close of the day's work upon the date fixed, unless by unanimous consent some other date and time is selected, either in the Department involved or in some suitable room convenient thereto, provided by the Management for this purpose. Joint Conferences may be held during working hours and upon Company time by the consent of the Management.
- (58) Joint Conferences shall be private except when witnesses may be called. Full and free opportunity shall be granted to all present to discuss from every angle and viewpoint all cases and matters presented by either side at each Joint Conference.
- (59) Immediately following discussion of any issue at a Joint Conference, a vote shall be taken upon the ques-

tion at issue and a majority of two votes of the entire membership of the Joint Committee shall decide; that is, five votes out of a Joint Committee of six, or seven votes out of a Joint Committee of ten shall control.

- (60) When an agreement has been reached the case or matter in issue is settled beyond appeal and shall be promptly adjusted in accordance therewith.
- (61) In case the General or Executive Committee in Joint Conference fails to reach an agreement, before other action shall be taken, said Committee shall refer the matter in question to the highest Executives of the Plant Management for consideration and recommendation.
- (62) A record of proceedings of all Joint Conferences shall be made, signed by all members present, and filed.

C

REFERENDUM AND RECALL

METHOD OF PROCEDURE

- (63) Whenever the services of any Committeeman, as such, becomes unsatisfactory the employees of the Department which he represents shall have the privilege of the Referendum and Recall.
- (64) Whenever twenty per cent (20%) of the employees of any Department shall sign a petition asking for a vote upon the Recall of their Committeeman and file said petition with the Chairman of the General Committee, a special election for that Department shall be held by said Committee promptly, in order to determine whether said Committeeman shall be recalled or continued in office.
- (65) If, at said special election, one-third or more of the actual employees of the Department involved shall vote to retain the services of the Committeeman in question, he shall not be recalled from service.
- (66) If at said special election more than two-thirds of the actual employees of the Department involved shall vote to recall the Committeeman in question, his services as such shall cease forthwith.

- (67) Whenever a Committeeman shall have been recalled, in accordance with Section 66, the vacancy thus created shall be immediately filled in line with the provisions set forth in Section 27.

D

AMENDMENTS

- (68) The foregoing By-Laws may be amended by a two-thirds vote at a Joint Conference of the General Committee and the Management.

The foregoing copy of Organization Plan and By-Laws is a correct copy of said Plan and By-Laws submitted and read by us to manufacturers party to the Award present at meeting November 26th, 1918, and which was received and recommended by them for adoption to manufacturers, party to the Award.

SPECIAL COMMITTEE

ROBERT H. BOOTH,
STANLEY H. BULLARD,
W. E. ECCLES,
D. B. GAUCHET,
JAMES G. LUDLUM, Chairman.

Approved, Nov. 27th, 1918 on behalf of the members of the Machinist's Union of Bridgeport, Conn.

SAMUEL LAVIT,
Business Agent.

PHILIP A. DESILETS,
Ass't Business Agent.

Approved under Bridgeport Award.

W. JETT LAUCK,
Secy. National War Labor Board.

E. B. WOODS,
Chief Administrator
National War Labor Board.

Approved December 16th, 1918, on behalf of the Manufacturers and Employees of Bridgeport, Conn.

Local Board of Mediation and Conciliation	{	JARVIS WILLIAMS, WILLIS F. HOBBS, GUY P. MILLER, Manufacturers' Representatives
		SAMUEL LAVIT, PATRICK SCOLLIN, DAVID CLYDESDALE, Employees' Representatives

Witnessed:

ALPHEUS WINTER,
Administrator of the Bridgeport Award.

APPENDIX F

REPORT OF INDUSTRIAL CONFERENCE

called by

THE PRESIDENT

WILLIAM B. WILSON, *Chairman*
HERBERT HOOVER, *Vice-Chairman*

MARTIN H. GLYNN
THOMAS W. GREGORY
RICHARD HOOKER
STANLEY KING
SAMUEL W. MCCALL
HENRY M. ROBINSON
JULIUS ROSENWALD
GEORGE T. SLADE

OSCAR S. STRAUS
HENRY C. STUART
WILLIAM O. THOMPSON
FRANK W. TAUSSIG
HENRY J. WATERS
GEORGE W. WICKERSHAM
OWEN D. YOUNG

WILLARD F. HOTCHKISS,
HENRY R. SEAGER,
Executive Secretaries

March 6, 1920

I. INTRODUCTION

The Industrial Conference was convened by the President on December 1, 1919. Under date of December 19th it issued for publication on December 29th, a tentative plan of machinery to adjust disputes in general industry by conference, conciliation, inquiry and arbitration. Criticism and constructive suggestions from the public were requested.

The tentative report provided for the adjustment of disputes rather than their prevention. The purpose of the Conference in publishing that report was to obtain at the earliest moment constructive criticism of the plan for adjustment, while the Conference was engaged in the further development of methods of prevention.

The Conference reconvened on January 12, 1920. It has received a vast amount of helpful comment from individuals and organizations in all parts of the country and it has also had the assistance of leading representatives of capital and labor, speaking for large numbers of employers and employees, who have come before it in frank consultation. This material has been carefully weighed.

The Conference now proposes joint organization of management and employees as a means of preventing misunderstanding and of securing cooperative effort. It has modified the tentative plan of adjustment so as to diminish the field of arbitration and enlarge the scope of voluntary settlement by agreement. As modified, the plan makes machinery available for collective bargaining, with only incidental and limited arbitration. The Conference has extended the plan to cover disputes affecting public utilities other than steam railroads and it has enlarged it to cover the services of public employees.

The present report also deals with a number of specific subjects consideration of which should underlie any approach to the industrial problem. Some of these are matters of current controversy.

The causes of industrial unrest are many. Among others they include the rise in the cost of living, unrestrained speculation, spectacular instances of excessive profits, excessive accumulation and misuse of wealth, inequality in readjustments of wage schedules, release of ideas and emotions by the war, social revolutionary theories imported from Europe, the belief that free speech is restricted, the intermittency of employment, fear of unemployment, excessive hours of work in certain industries, lack of adequate housing, unnecessarily high infant mortality in industrial centers, loss of personal contact in large industrial units and the culmination of a growing belief on the part of both employers and employees that a readjustment is necessary to a wholesome continuity of their united effort.

For the most part causes of unrest are not the result of the war; they have been accentuated by it. Much investigation and public discussion have been devoted to these matters. The relative importance and emphasis laid on the different causes varies with each investigator. The Conference, in Part IV, has made suggestions for dealing with some of the conditions enumerated, and it hopes that progress toward remedying them may be accelerated by the further development of employee representation and by the use of the suggested machinery for adjustment.

There is, however, a feature of the present industrial

unrest which differentiates it from that commonly existing before the war. It can not be denied that unrest to-day is characterized more than ever before by purposes and desires which go beyond the mere demand for higher wages and shorter hours. Aspirations inherent in this form of restlessness are to a greater extent psychological and intangible. They are not for that reason any less significant. They reveal a desire on the part of workers to exert a larger and more organic influence upon the processes of industrial life. This impulse is not to be discouraged but made helpful and cooperative. With comprehending and sympathetic appreciation, it can be converted into a force working for a better spirit and understanding between capital and labor, and for more effective cooperation.

The wisest suggestions for the prevention and relief of industrial unrest are to be found by interpreting the best thought and experience of those employers and employees who, within the area of their own activities, have most successfully dealt with the problem. The Conference in making its final report has considered the interpreting of actual achievements its most useful function. It believes that practical experience is more useful than the views of extremists on either side. Such experience shows that no group of men can successfully undertake to deal with the interests of other groups without their cooperative participation in the methods of equitable adjustment.

The guiding thought of the Conference has been that the right relationship between employer and employee can be best promoted by the deliberate organization of that relationship. That organization should begin within the plant itself. Its object should be to organize unity of interest and thus to diminish the area of conflict, and supply by organized cooperation between employers and employees the advantages of that human relationship that existed between them when industries were smaller. Such organization should provide for the joint action of managers and employees in dealing with their common interests. It should emphasize the responsibility of managers to know men at least as intimately as they know materials, and the right and duty of employees to have a knowledge of the industry, its processes

and policies. Employees need to understand their relation to the joint endeavor so that they may once more have a creative interest in their work.

Industrial problems vary not only with each industry but in each establishment. Therefore, the strategic place to begin battle with misunderstanding is within the industrial plant itself. Primarily the settlement must come from the bottom, not from the top.

The Conference finds that joint organization of management and employees where undertaken with sincerity and good will has a record of success. The general principles governing such organization are stated at length under the title, "Employee Representation." It is not a field for legislation, because the form which employee representation should take may vary in every plant. The Conference, therefore, does not direct this recommendation to legislators but to managers and employees.

If the joint organization of management and employees in the plant or industry fails to reach a collective agreement, or if without such joint organization, disputes arise which are not settled by existing agencies, then the Conference proposes a system of settlement close at hand and under governmental encouragement, and a minimum of regulation. The entrance of the Government into these problems should be to stimulate further cooperation.

The system of settlement consists of a plan, nation wide in scope, with a National Industrial Board, local Regional Conferences and Boards of Inquiry, as follows:

1. The parties to the dispute may voluntarily submit their differences for settlement to a board, known as a Regional Adjustment Conference. This board consists of four representatives selected by the parties, and four others in their industry chosen by them and familiar with their problems. The board is presided over by a trained government official, the regional chairman, who acts as a conciliator. If a unanimous agreement is reached, it results in a collective bargain having the same effect as if reached by joint organization in the shop.

2. If the Regional Conference fails to agree unanimously, the matter, with certain restrictions, goes, under the agree-

ment of submission, to the National Industrial Board, unless the parties prefer the decision of an umpire selected by them.

3. The voluntary submission to a Regional Adjustment Conference carries with it an agreement by both parties that there shall be no interference with production pending the processes of adjustment.

4. If the parties, or either of them, refuse voluntarily to submit the dispute to the processes of the plan of adjustment a Regional Board of Inquiry is formed by the regional chairman, of two employers and two employees from the industry, and not parties to the dispute. This Board has the right, under proper safeguards, to subpoena witnesses and records, and the duty to publish its findings as a guide to public opinion. Either of the parties at conflict may join the Board of Inquiry on giving an undertaking that, so far as its side is concerned, it will agree to submit its contention to a Regional Adjustment Conference, and, if both join, a Regional Adjustment Conference is automatically created.

5. The National Industrial Board in Washington has general oversight of the working of the plan.

6. The plan is applicable also to public utilities, but in such cases, the government agency, having power to regulate the service, has two representatives in the Adjustment Conference. Provision is made for prompt report of its findings to the rate regulating body.

The Conference makes no recommendation of a plan to cover steam railroads and other carriers, for which legislation has recently been enacted by Congress.

7. The plan provides machinery for prompt and fair adjustment of wages and working conditions of government employees. It is especially necessary for this class of employees, who should not be permitted to strike.

8. The plan involves no penalties other than those imposed by public opinion. It does not impose compulsory arbitration. It does not deny the right to strike. It does not submit to arbitration the policy of the "closed" or "open" shop.

The plan is national in scope and operation, yet it is decentralized. It is different from anything in operation elsewhere. It is based upon American experience and is designed

to meet American conditions. It employs no legal authority except the right of inquiry. Its basic idea is stimulation to settlement of differences by the parties in conflict, and the enlistment of public opinion toward enforcing that method of settlement.

II. PREVENTION OF DISPUTES

JOINT ORGANIZATION THROUGH EMPLOYEE REPRESENTATION

Prevention of disputes is worth more than cure. The Conference feels that a new basis of industrial peace may be found in the further development of the democratic organization of the relations of employers and employees, now widely in progress through the country.

Modern industry, as conducted in large plants, has caused a loss of personal contact between employers and employees. It has also caused, through high specialization and repetitive mechanical processes, a loss of creative interest. But it makes possible a greater production of the material things which contribute to the common resources of the people. Upon these resources an advancing civilization, with a higher common standard of living, must depend.

Direct personal contact in the old manner can not be restored. It is necessary, therefore, to find the best possible substitute through democratic representation. Employees need an established channel of expression and an opportunity for responsible consultation on matters which affect them in their relations with their employers and their work. There must be diffused among them a better knowledge of the industry as a whole and of their own relation to its success. Employee representation will not only enable them better to advance their own interests, but will make them more definitely conscious of their own contribution, and their own responsibilities.

Employee representation has been discussed under different names and forms, such as shop committees, shop councils, works councils, representative government in industry and others. But representation is a definite principle rather than a form. The Conference, therefore, prefers the generic term

"employee representation." In using this term the Conference has in mind the successful application of the principle to various activities outside, as well as within, the purely industrial field.

From both employers and employees the Conference has received thoughtful and helpful suggestions as to the possibilities, under proper conditions, of employee representation. These suggestions clearly proceed from a genuine desire that this movement may spread in accordance with sound principles and be kept from perversions which would threaten its lasting usefulness by making it an agency of attack rather than a means to peace.

Employee representation organizes the relations of employer and employee so that they regularly come together to deal with their common interests. It is operating successfully under union agreements in organized shops. It is operating in non-union shops, and it is operating in shops where union and non-union men work side by side. In plants working under union agreement, it adds to collective bargaining an agency of cooperation within the plant. It is itself an agency of collective bargaining and cooperation where union agreements do not obtain.

It is idle wholly to deny the existence of conflicting interests between employers and employees. But there are wide areas of activity in which their interests coincide. It is the part of statesmanship to organize identity of interest where it exists in order to reduce the area of conflict. The representative principle is needed to make effective the employee's interest in production, as well as in wages and working conditions. It is likewise needed to make more effective the employer's interest in the human element of industry.

The idea of employee representation has aroused opposition from two sources. On the one hand, in plants too large for direct personal contact, employers who still adhere to the theory that labor is a commodity, hold off from any form of cooperation with employees. This view is steadily disappearing and will, it is hoped, wholly disappear. On the other hand, a number of trade-union leaders regard shop representation as a subtle weapon directed against the union. This thought is apparently based on the fear that it may be

used by some employers to undermine the unions. Conceived in that spirit no plan can be a lasting agency of industrial peace.

But occasional misuse of employee representation and the consequent hesitancy of organized labor to endorse it officially, are based on a misconception of the possible and desirable relations between the union and the shop committee. This relation is a complementary, and not a mutually exclusive one. In many plants the trade-union and the shop committee are both functioning harmoniously. In some establishments the men are unionized, and the shop committees are composed of union men. In others, some men belong to the trade-union while all belong to the shop organization.

The union has had its greatest success in dealing with basic working conditions, and with the general level of wages in organized and partially organized industries and crafts. It has also indirectly exerted an influence on standards in unorganized trades. There is no reason to suppose that in the future this influence will not continue.

Local problems, however, fall naturally within the province of shop committees. No organization covering the whole trade and unfamiliar with special local conditions and the questions that come up from day to day, is by itself in a position to deal with these questions adequately, or to enlist the cooperation of employer and employee in methods to improve production and to reduce strain. Except for trades in which the union itself has operated under a system of employee representation, as it does in shipbuilding and in the manufacture of clothing and in other trades, these internal factors are likely either to be neglected or to be dealt with in a way which does not make for satisfactory cooperation.

The existence of employee representation in plants operating under union agreement does not necessarily reduce the scope of the union representative's work. But matters are more likely to come to him as questions of the application of an agreement rather than as mere grievances. In other words he has greater opportunity for service in negotiation of an essentially conciliatory nature. The fortunate

results of such development have been evident in industries in which employee representation and trade-unions have for some time been functioning harmoniously.

Employee representation must not be considered solely as a device for settling grievances. It can find success only if it also embodies cooperation in the problem of production. Whatever subjects the representatives come to feel as having a relation to their work, and their effectiveness as members of the plant, may come within the field of committee consideration. It is a thing to be undertaken, if at all, in a thoroughgoing way. Representatives must be selected by the employees with absolute freedom. In order to prevent suspicion on any side, selection should be by secret ballot. There must be equal freedom of expression thereafter. All employees must feel absolutely convinced that the management will not discriminate against them in any way because of any activities in connection with shop committees. Meetings should be held frequently and regularly, not merely when specific disputes are threatened. Both sides must be prepared to study the problems presented and must give them patient, serious and open-minded consideration. There should be made available those facilities and facts essential to the formation of soundly based conclusions.

Employee representation offers no royal road to industrial peace. No employer should suppose that merely by installing some system of shop representation he can be assured, without continued effort, of harmony and increased production. Doubtless there will be failures where the plan is adopted as a fad or a panacea. It is only a means whereby sincerity of purpose, frank dealing and the establishment of common interests, may bring mutual advantage.

The development and maintenance of right relations between employer and employee require more than mere organization. Intelligent and wise administration is needed of all those problems of production that directly touch the employee. Conditions affecting human beings in industry were, during the last generation, largely in charge of men whose special training had been devoted to the mechanical side of production. Much study was given to the machinery and processes upon which men worked. But the factors that

contribute to the broader human development and satisfaction of the employee and that lead to increased productivity were too nearly neglected. The elimination of human friction is, even from the point of view of increased production, at least no less important than the elimination of waste in materials, or in mechanical power.

Establishments in which the ultimate management is of necessity widely removed from the employees, require provision for specialized study of industrial relations. But the right concept of human relations in industry, which should be the primary impulse of management, is of full value only when it permeates the entire administrative force. Far-sighted executives testify to the advantage gained from careful and painstaking efforts to encourage and educate their foremen in the proper attitude toward employees.

A large proportion of men trained in our engineering and technical schools now pass into executive positions. It is, therefore, desirable that these schools should provide courses of instruction in which the psychological and industrial background for human relations work shall be developed. But no amount of education outside the plant will remove the need for the systematic training of the force within.

Some industries have extended the principles of employee representation beyond the individual plant. The voluntary joint councils which have thus been set up in the clothing industry, in the printing trade, and elsewhere are fruitful experiments in industrial organization.

The Conference has had the benefit of testimony from both employers and employees who have had experience of the results of employee representation. An enthusiasm has been shown which comes from a sincere feeling of substantial progress in the development of human relations.

III. PLAN FOR ADJUSTMENT OF DISPUTES

GENERAL DESCRIPTION

1. PROCEDURE WHEN BOTH SIDES VOLUNTARILY SUBMIT DISPUTES FOR ADJUSTMENT

The United States shall be divided into a specified num-

ber of industrial regions, in each of which there shall be a chairman.

Whenever a dispute arises in a region, which can not be settled by existing machinery, the regional chairman may request each side to submit the dispute to a Regional Adjustment Conference to be composed of two representatives from each side, parties to the dispute, and two representatives to be selected by each side from the panels herein provided for. The regional chairman shall preside but not vote at the Conference.

If the Conference reaches a unanimous agreement it shall be regarded as a collective bargain between the parties to the dispute and shall have the force and effect of a trade agreement. If the Conference does not reach an agreement and the disagreement relates to wages, hours or working conditions, it shall make a finding of the material facts, and state the reasons why it was unable to reach an agreement. The regional chairman shall report such finding and statement to the National Industrial Board herein provided for, which shall determine the matters so submitted as arbitrator. If the National Industrial Board shall reach a unanimous agreement, it shall report its determination back to the Regional Adjustment Conference, which shall in accordance therewith state the agreement between the parties to the dispute the same as if the Conference had reached a unanimous conclusion. If the National Industrial Board shall fail to reach a unanimous conclusion, it shall make majority and minority reports and transmit them to the regional chairman, who shall immediately publish such reports, or such adequate abstracts thereof, as may be necessary to inform the public of the material facts and the reasons why the Board was unable to reach an agreement.

If the Conference does not reach an agreement and its disagreement relates to matters other than wages, hours, or working conditions, it shall make and publish its report, or majority and minority reports stating the material facts and the reasons why it was unable to reach an agreement.

If the parties to the dispute so desire, they may select an umpire to act as arbitrator in place of the National Industrial Board, and in such case, the determination of the

umpire shall be transmitted to the Regional Adjustment Conference with the same force and effect as a determination by the National Industrial Board.

The appointment of representatives to the Regional Conference constitutes a voluntary agreement, (a) that there shall be no cessation of production during the processes of adjustment, (b) to accept as an effective collective bargain the unanimous agreement of the Regional Adjustment Conference, (c) to accept as an effective collective bargain, (in case of failure of the Regional Adjustment Conference) the decision of a mutually chosen umpire, (d) to accept as an effective collective bargain, (in case of failure of the Regional Adjustment Conference, or upon failure of the parties to agree upon an umpire) the unanimous decision of the National Industrial Board upon wages, hours and working conditions.

2. PROCEDURE WHEN THERE IS NO VOLUNTARY SUBMISSION

If both parties to the dispute refuse to submit it to a Regional Adjustment Conference through the failure to appoint representatives within the time allowed, the chairman shall organize forthwith, a Regional Board of Inquiry, consisting of two employers from the top of the employers' panel for the industry concerned, and two employees from the top of the employees' panel for the craft or crafts concerned. The four so chosen with the chairman shall constitute the Board of Inquiry.

If either side shall have selected representatives, and thereby agreed to submit to the process of adjustment of the dispute, such representatives may select two names from their panel in the same manner as for a Regional Adjustment Conference. Such representatives of the party to the dispute, may sit on the Board of Inquiry and take full part as members thereof. The six thus selected, with the chairman, shall thereafter constitute the Board of Inquiry.

The Board of Inquiry shall proceed forthwith to investigate the dispute, and make and publish its report, and if not in agreement, its majority and minority reports, in order that the public may know the facts material to the dispute, and the points of difference between the parties to it.

DETAILS OF THE PLAN

1. NATIONAL AND REGIONAL BOARDS

There shall be established a National Industrial Board, Regional Adjustment Conferences and Boards of Inquiry.

2. NATIONAL INDUSTRIAL BOARD

The National Industrial Board shall have its headquarters in Washington, and shall be composed of nine members appointed by the President and confirmed by the Senate. In order to insure appointment upon such Board of persons familiar with industrial questions and capable of estimating the effect of the decisions rendered, three shall be chosen from persons representative of industrial employers, three from persons representative of industrial employees, and three from persons representative of general interests, who shall be specially qualified by reason of knowledge or experience with economic and general questions. All shall act for the general welfare and shall be selected without regard to political affiliations. One of the three persons representative of general interests shall be designated by the President as chairman.

The terms of office of members of the National Industrial Board shall be six years; at the outset three members, including one from each group, shall be appointed for a term of two years, three members for a term of four years, and three members for a term of six years; thereafter three members, one from each group, shall retire at the end of each period of two years. Members shall be eligible for reappointment.

The Board shall have general supervisory power over, and shall make rules governing the general administration of the plan. It may, in its discretion, require the regional chairman to take cognizance of a dispute and to institute the regional machinery to deal with the same; it may also suspend the operation of the regional machinery in case the regional chairman shall have set the same in motion under circumstances which the National Industrial Board disapproves. It shall act as a board of appeal on questions of wages, hours and working conditions which cannot be adjusted by a Regional Adjustment Conference, and in such

cases it shall act by unanimous vote. It may act as a board of appeal on all other questions which may come before a Regional Adjustment Conference, which may be voluntarily submitted to it by the parties to the dispute and which they have not been able to agree upon in the Regional Adjustment Conference, except questions of policy such as the "closed" or "open" shop. In such cases, it shall act by such vote, unanimous or otherwise, as the submission shall specify. In case it is unable to reach a determination, it shall make and cause to be published, majority and minority reports. Such reports shall be matters of public record.

On all administrative questions, the Board may act by majority vote.

In order to facilitate its business, the Board may, in the less important cases, subdivide into parts of three, constituted of one member from each group.

In the event that the facts transmitted to it by the chairman of the Regional Adjustment Conference are, in the opinion of the Board, inadequate to enable it to make a decision, the Board shall send the case back to the regional chairman with instructions to secure such further facts as may be needed. If the representatives of the parties to the dispute are in agreement upon the facts required, the chairman shall then secure and communicate to the National Industrial Board such facts; or (in case of their failure to agree) he shall reconvene the Regional Adjustment Conference for the purpose of making a supplementary report concerning the needed facts. The National Industrial Board shall have no right of inquiry and no power to subpoena. When the Board finds it necessary to call for additional facts, as just indicated, the time for the decision of the case by the Board may be extended, if necessary, for the purpose of obtaining the requisite facts.

3. REGIONAL CHAIRMEN AND VICE-CHAIRMEN

In each region the President shall appoint a regional chairman. He shall be a representative of the public interest, shall be appointed for a term of three years and be eligible for reappointment.

Whenever in any industrial region, because of the multi-

plicity of disputes, prompt action is impossible, or where the situation makes it desirable, the National Industrial Board may, in its discretion, choose one or more vice-chairmen and provide for the establishment under their chairmanship of additional Regional Conferences or Boards of Inquiry. The terms of office of such vice-chairmen shall be limited to the consideration of the specified cases for which they are appointed.

4. PANELS OF EMPLOYERS AND EMPLOYEES FOR REGIONAL BOARDS

Panels of employers and employees for each region shall be prepared by the Secretary of Commerce and the Secretary of Labor, respectively, after conference with the employers and employees, respectively, of the regions. The panels shall be approved by the President.

At least 30 days before their submission to the President, provisional lists for the panels in each region shall be published in such region.

The panels of employers shall be classified by industries; the panels of employees shall be classified by industries and subclassified by crafts. The names of employers and employees selected shall be at first entered on their respective panels in an order determined by lot.

The selection from the panels for service upon the Regional Boards shall be made in rotation by the regional chairman; after service the name of the one so chosen shall be transferred to the foot of his panel.

The regional panels shall be revised annually by the Secretaries of Commerce and of Labor, respectively, in conference with the employers and employees, respectively, of each region.

5. DETAILED PROCEDURE OF REGIONAL ADJUSTMENT CONFERENCE

Cognizance of Disputes

The regional chairman shall not take cognizance of a dispute unless he is satisfied that it can not be settled by agreement of the parties, or by existing machinery. If request be made by a party to a dispute that cognizance be taken of it, the regional chairman shall require the presentation of satisfactory evidence that an attempt has been

made in good faith to settle the dispute by agreement of the parties, or by existing machinery, before requesting the other side to submit the dispute to a Regional Adjustment Conference.

Submission

When the chairman shall have decided to take cognizance of the dispute, he shall request each party to it to select two representatives within such time, (not less than two nor more than seven days) as may be fixed by the chairman.

The appointment of representatives by both sides shall constitute an agreement that the parties will endeavor in good faith to adjust the dispute as members of the Regional Adjustment Conference, and that in case of failure of the Conference to agree unanimously, they will accept the award of the National Industrial Board, or of an umpire selected by them, on any question relating to wages, hours and working conditions, as herein provided. It shall also constitute an agreement by both sides that they will continue, or reestablish and continue, until the case is concluded, the status that existed at the time the dispute arose.

Selection of Representatives

The selection of representatives of parties to the dispute shall be made in accordance with rules laid down by the National Industrial Board for the purpose of insuring free, prompt and unrestricted choice of such representatives.

In case either side shall object to the representatives of the other, on the ground that they are not in fact representative, the chairman shall pass upon such objection, or he may call in some competent person to do so. If the chairman is in doubt as to whether the representatives objected to are in fact representative, he shall require that formal action be taken by the employer to select, and properly certify to the selection of his representatives, and likewise, unless otherwise provided by the National Industrial Board, he shall require the employees to elect their representatives by secret ballot, under the direction of some impartial person, designated by the chairman.

Selection from the Panels

When both sides shall have selected their representatives, the chairman shall take from the top of the panels for the industry concerned, or in the case of employees, for the craft or crafts concerned, twelve names of employers and employees respectively. The representatives of the two sides shall choose two each from the twelve names on their respective panels.

Formation of Regional Adjustment Conference

The chairman shall forthwith convene a Regional Adjustment Conference composed of the four representatives of the parties to the dispute, the four persons selected from the panels and the chairman, and so constituted, the Conference shall proceed at once to negotiate an adjustment of the dispute.

Ascertainment of Facts

The Regional Adjustment Conference shall not have the right of inquiry, or the power to subpoena, but shall obtain its facts through the voluntary action of the parties to the dispute.

If no agreement is reached by the Conference, and in the opinion of the chairman additional information is required to make a report to the National Industrial Board or to an umpire, the Regional Adjustment Conference shall, at that time and for that purpose, have all the powers of inquiry and right to subpoena which are vested in the Regional Board of Inquiry. Such right shall continue for the purpose of ascertaining any further material facts which the National Industrial Board or the umpire may require.

6. POWERS AND DUTIES OF REGIONAL BOARD OF INQUIRY*Organization of Regional Board of Inquiry*

If both parties to the dispute, or either party, refuse to submit it to a Regional Adjustment Conference, the chairman shall organize forthwith a Regional Board of Inquiry.

Right to Subpoena and Examination

The Regional Board of Inquiry shall have the right to subpoena witnesses, to examine them under oath, and to require the production of books and papers, in order to

enable the Board to ascertain all facts material to the dispute and a clear understanding of the issues involved.

Reports

The report or reports of a Board of Inquiry shall, in addition to being made public by the chairman, be transmitted to the Secretaries of Commerce and Labor respectively, and shall be filed with the National Industrial Board, and with the chairman of each and every region, where they shall be matters of public record.

Right of the Chairman to Vote

The chairman shall have the right to vote on all matters coming before the Board of Inquiry and he may in his discretion join in any report or reports of the Board.

7. TRANSFORMATION OF THE REGIONAL BOARDS OF INQUIRY INTO REGIONAL ADJUSTMENT CONFERENCES

At any time during the progress of the inquiry if both sides shall have selected representatives, and agreed to submit the dispute for adjustment, the Board of Inquiry shall become a Regional Adjustment Conference by the admission to membership on the Board of such representatives. The side or sides which appoint representatives, after the date fixed in the original request of the chairman, shall, (because of its delay) accept the members of the Board of Inquiry as members of the Regional Adjustment Conference.

The Regional Adjustment Conference, so constituted, shall proceed to the settlement of the dispute as though it had been organized within the period originally fixed by the chairman.

8. UMPIRE

When a Regional Adjustment Conference is unable to reach a unanimous agreement, the representatives of the parties to the dispute may select an umpire, and refer the dispute to him with the provision that his determination shall be final, and shall have the same force and effect as a unanimous agreement of such Regional Adjustment Conference. All questions, even those including the "open" and "closed" shop, may be referred by the parties to an umpire.

9. COMBINATION OF REGIONS

When the questions involved in a dispute extend beyond the boundaries of a single region, the regions to which the dispute extends shall, for the purpose of such dispute, be combined by order of the National Industrial Board, which shall designate the chairman of one of the regions concerned, to act as chairman of the Adjustment Conference, or Board of Inquiry, to be created in connection with the dispute in question.

Two employer members and two employee members shall be chosen from the combined panels of the regions involved in the dispute, under rules and regulations to be established by the National Industrial Board. The members representing the two sides to the dispute, and the members from the panels, shall be chosen in the same manner as in the case of a dispute in a single region. The National Industrial Board shall prescribe rules and regulations for the combination of the panels, and the effective adaptation of the other machinery created for use in the combined regions.

A Regional Board of Inquiry constituted for a dispute extending beyond the boundaries of a single region shall have the same rights and powers as those conferred upon a Regional Board of Inquiry for a single region.

10. TIME OF REPORTING FINDINGS

Any Regional Board of Inquiry shall make and publish its report within five days after the close of its hearing, and within not more than 30 days from the date of issue of the original request by the chairman to the two sides to the dispute to appoint representatives.

Any Regional Adjustment Conference shall make its determination of any question in dispute, or if unable to make a determination, shall make its report to the National Industrial Board, or to an umpire, if one shall have been selected, within 5 days after the close of its hearing, and within not more than 30 days from the time of the appointment of the representatives of the parties to the dispute. If the failure to make a determination relates to matters not appealable to the National Industrial Board, and in

case no umpire has been selected, the Regional Adjustment Conference shall, within the 30 days above specified, make and publish its report or reports. The periods above specified may be extended by unanimous agreement of the Conference, or by the National Industrial Board.

The National Industrial Board, or any umpire, shall determine any pending question in dispute within 15 days after the report of the Regional Adjustment Conference shall have been submitted.

11. EFFECT OF DECISION

Whenever an agreement is reached through a Regional Adjustment Conference, or the National Industrial Board, or an umpire, it shall have the full force and effect of a trade agreement, which the parties to the dispute are bound to carry out.

12. APPLICATION OF AWARDS

Any question arising as to the true meaning or application of any such agreement shall be determined by the representatives of the parties to the dispute on the Regional Adjustment Conference before which the dispute was heard. In case of disagreement, such representatives shall, unless otherwise provided in the agreement, submit in writing the question to the chairman of such Board, whose decision shall be final.

13. PROCEDURE ON FAILURE TO COMPLY WITH AN AWARD

Upon complaint that either party has failed to comply with an agreement, the chairman of the Regional Adjustment Conference before which the dispute was heard, shall call in one employer and one employee member of such Conference, not parties to the dispute, selected in the order of their position on the panel at the time such Conference was created, and the board of three thus constituted shall, by majority vote, determine whether or not there has been a failure to comply with the agreement, and shall make its determination public.

14. RELATION OF BOARDS TO EXISTING MACHINERY FOR CONCILIATION AND ADJUSTMENT

The establishment of the National Industrial Board and

the Regional Adjustment Conference shall not affect existing machinery of conciliation, adjustment and arbitration established by the Federal Government, by the governments of the several states and territories or subdivisions thereof, or by mutual agreements of employers and employees.

Any industrial agreement made between employers and employees may, by consent of the parties, be filed with the National Industrial Board. Such filing shall constitute agreement by the parties that in the event of a dispute, they will maintain the status existing at the time the dispute originated until a final determination, and that any dispute not adjusted by means of the machinery provided by the agreement, shall pass on appeal to the National Industrial Board for determination, and that such determination shall be of the same questions and shall have the same force and effect as in the case of a dispute on appeal from a Regional Adjustment Conference.

15. GENERAL PROVISIONS

The President shall have the power of removal of all persons appointed by him under the provisions of the plan.

In the presentation of evidence to the Board of Inquiry, and in argument before the National Industrial Board or an umpire, each side shall have the right to present its position through representatives of its own choosing.

The Secretary of Commerce and the Secretary of Labor, in preparing and revising the regional panels of employers and employees, shall, from time to time, develop suitable systems to insure their selections being truly representative.

The National Industrial Board, the Regional Adjustment Conferences and the umpires shall, in each of their determinations, specify the minimum period during which such determination shall be effective and binding. In case of emergency, a Regional Adjustment Conference or the National Industrial Board may, after hearing both sides, alter its determination by abridging or extending the period specified.

In case of vacancy in any office or position created under this plan, such vacancy shall be filled for the unexpired

term, in the same manner as the original selections were made, provided, however, that if the vacancy occurs in the position of representatives of parties to a dispute, such vacancy may be filled by joint agreement of the parties.

Whenever an agreement shall be reached through a Regional Adjustment Conference, it shall be executed in four originals, two of which shall be given to the parties to the dispute, respectively; one shall be filed with the National Industrial Board and one shall be filed in the office of the chairman of the region in which the agreement was reached. The agreements filed with the National Industrial Board and with the chairman shall be public records.

The National Industrial Board shall from time to time make suitable rules and regulations for the purpose of carrying out this plan, including regulations for the privacy of any information disclosed by a party, which information, altho necessary and proper for a decision of the matter in hand, may, by its public disclosure to the Board, umpire or Conference, injure one or more of the parties.

The National Industrial Board shall also from time to time, as experience in the operation of the plan shows to be desirable, issue instructions to the regional chairman concerning the character of disputes of which they should take cognizance, in order that the plan may best serve the public interest.

No agreement of any Regional Adjustment Conference shall be effective for any purpose if the same be in violation of any law of the United States or of any State in which such agreement is to be applied.

The National Industrial Board may, whenever it deems it desirable, request one employer representative and one employee representative, members of the Regional Adjustment Conference, not parties to the dispute, to assist it in arriving at a clear understanding of any technical questions involved in the dispute, and in framing its report. Such representatives shall not participate in the decision of any question.

16. BASIS OF DECISIONS

Whenever a Board of Inquiry inquires into, or a Regional Adjustment Conference adjusts, a dispute relating to wages,

hours of labor or working conditions, it must inquire into the conditions prevailing in the industry, and its findings or decision, as the case may be, must be such that the standards recommended or decided upon may with fairness be applied to the entire industry, making due allowance for modification which should be made on account of the local conditions, including competitive relations and living conditions, at the particular plant or plants to which the report or award is to be applied.

17. PROTECTION OF INFORMATION

Any information obtained by any Board, Conference or umpire in the course of any inquiry or hearing as to any individual business, (whether carried on by a person, firm or company) which is not available to the public, shall not be made public, except with the consent of the owner of such business, provided, however, that this shall not prevent such general statement as may be necessary to inform the public of the issues involved in the dispute.

No individual member of such Boards or Conferences, and no umpire or other person obtaining information in any manner through their proceedings, shall disclose, or in any way use such information except in connection with his official action to accomplish the purposes of the plan.

Suitable penalties should be provided for any violation of this provision.

PUBLIC UTILITIES

The plan as above outlined for general industry shall be modified as set forth below, and shall be applicable to public utilities other than those carriers provided for by Congress in Title III of the Transportation Act of February 28, 1920, U. S. Statutes, 66th Congress (commonly known as The Cummins-Esch Law).

Proper regional panels of employers and employees in different classes of public utilities shall be created.

The Regional Adjustment Conference shall consist of the chairman, four representatives of the parties to the dispute, two from each side, one employer representative and one employee representative taken from the panels in the

class of public utility in which the dispute arises, and two members representing the government authority which has power to regulate the service of the public utility. The panel representatives may be chosen by the parties to the dispute, from the first six names on their respective panels.

In case of failure of the chairman to secure the creation of a Regional Adjustment Conference, he shall proceed, as in the case of general industry, to form a Regional Board of Inquiry. The Board of Inquiry shall be constituted of the same memberships as provided above for the Regional Adjustment Conference, including the representative of the party to the dispute, who shall undertake to abide by all the processes and decisions as set forth below. Such party shall have the right to select his panel member. In the case of the party who shall not appoint his representatives as above, the panel member for his side shall be taken from the top of the appropriate panel.

The representatives of the government authority on the Regional Adjustment Conference, or on the Regional Board of Inquiry, shall be appointed by the government authority or commission authorized to regulate the service of the utility in which the dispute arises, and if there be no such commission, then the Chief Executive of the government having the right to regulate such service.

The National Industrial Board shall, in the case of appeals in public utilities, reach its decisions by a majority vote, provided that at least one public representative concurs, and such decision shall be binding upon the employer, unless within ten days after such an award is rendered, he shall in writing disaffirm the same; and likewise, the award shall be binding upon the employees, unless within twenty days after such an award is rendered, it shall in writing be disaffirmed by the employees acting by secret ballot under the supervision of some impartial person named in the award, to conduct such a ballot.

As in general industry, the submission of the parties to the processes of adjustment shall be purely voluntary. But the selection of their representatives to the Regional Adjustment Conference, (or by one of them, if he join the Regional Board of Inquiry) shall constitute a complete

agreement by the party or parties who submit, that they will take no action to impair, impede, interfere with, or in any way interrupt the service of such utility, during the adjustment (including the period during which the decision of the National Industrial Board may be disaffirmed, as set forth above).

Furthermore, the submission shall constitute an undertaking that when unanimous agreement is reached by a Regional Adjustment Conference, or by decision of an umpire voluntarily selected by the parties, or when the award of the National Industrial Board is not disaffirmed by either party, as above provided, such agreement or award shall constitute a trade agreement by which the employer agrees to provide such work as may be necessary for the operation of the utility under the terms of the agreement during the term of the award, and the employees acting as a group agree that they will perform the work necessary for the operation of the utility in good faith so far as possible, under the terms of the agreement, uninterrupted by any group action or by any collective or group understanding, written or oral, express or implied, during the terms of the award.

These provisions shall not prevent an employer from discharging for cause in the regular course of employment, nor prevent any individual employee from resigning from the service.

NOTE.—The Conference wishes to point out that the continuity of employment in public utilities offers an opportunity for collective bargaining beyond that which has to do with standards only, the usual form in general industry. The kind of collective bargaining here described, and which is practicable in the case of public utilities, is a mutually advantageous extension of the collective bargaining principle into the region of a positive agreement to give and to undertake actual employment.

Since the Conference issued its preliminary statement on December 19, 1919, the Congress has dealt with the railway situation by the Transportation Act, 1920, and a Special Commission also has been created with respect to bituminous coal mining. A majority of the Conference therefore

has deemed it unnecessary to suggest any provisions for the legal prevention of strikes in public utilities in this plan, believing that the continuous operation of such utilities will be secured through the acquiescence of employees in the workings of the machinery created by the plan, especially when voluntarily invoked or accepted by them.

Mr. Gregory, however, feels that the continuous operation of railroads and other transportation systems, of water, light, gas, telegraph and telephone plants and of groups of coal mines, all essential to the convenience and frequently the very existence of the general public, should be assured. He considers that the Conference has provided fair and adequate machinery for the prompt adjustment of disputes between employer and employee.

He was willing to accept a plan which would have made lockouts and strikes in these essential industries unlawful during the time the proposed tribunals were seeking to determine and publish the facts and settle the issues involved, and during the subsequent brief period within which the parties to the controversy were to accept or reject the award made, and during the period covered by the award in case both parties accepted it.

He considers that the plan adopted furnishes no real guarantee that either of the contesting forces, even after having voluntarily submitted its contentions to the tribunals, and even while representatives of its own unrestricted choosing are sitting as judges and participating in an effort to settle the dispute by a decision which must be unanimous in order to be binding, shall not repudiate these tribunals and thereby precipitate the very situation which the proposed machinery is intended to prevent.

He feels that the furnishing of such a guarantee was implied in the following language of the preliminary statement of the Conference:

"The continuous operation of public utilities is vital to public welfare. As the capital invested is employed in public use, so is the labor engaged in public service; and the withdrawal of either with the result of suspending service makes the people the real victim. While continuous operation of all utilities is conducive to the general con-

venience of the people, that of some of them is essential to their very existence. Of the latter class the railways are a conspicuous example and bear the same relation to the body politic as do the arteries to the human body. Suspension produces practical social and economic anarchy and may impose hardship even to the point of starvation upon large sections of the community. The interruption in such essential public utilities is intolerable."

Mr. Stuart shares the views of Mr. Gregory, except as to their applicability to coal mines, which are not public utilities.

PUBLIC EMPLOYEES

The plan for general industry shall be applicable to public employees to the extent and with the substantial modifications following. The Secretary of Commerce and the Secretary of Labor acting together shall provide regional panels of persons who are broadly familiar with the different classes of services performed by public employees in the region. If any State desires to avail itself of this machinery, the Governor of the State shall name such panels for use in connection with any question affecting the public employees of that state.

The Regional Adjustment Conference shall consist of two representatives from the legislative branch of the Government authorized by law to make appropriations, two representatives from that branch or department of the Government which is in the position of employer, two representatives from the employees in the class of public service in which the question arises, and two members to be selected by the representatives of the employees from the first twelve names on the general panel.

A Regional Adjustment Conference shall be convened by the chairman on the request of the administrative head of any department of the Government standing in the relation of employer, or on the request of such a substantial number of the employees as to satisfy the chairman that the question is of sufficient importance to justify the convening of a Regional Adjustment Conference.

If the Regional Adjustment Conference reaches an agree-

ment, its report shall take the form of a recommendation to the appropriate legislative body, as a basis for appropriations. If the Conference does not reach an agreement, no report shall be made, unless the legislative body shall request such report.

The appropriate governmental authority shall, from time to time, designate the classes of public employees which are to be subject to the plan.

In the case of public employees there shall be no Board of Inquiry but all material facts and information shall be made available to the Regional Adjustment Conference. There shall be no appeal to the National Industrial Board, and no reference to an umpire.

IV. OTHER PROBLEMS AFFECTING THE EMPLOYMENT RELATIONSHIP

1. THE DEVELOPMENT OF INDUSTRIAL RELATIONS

While the relations between employers and employees are primarily a human problem, the relationship in its legal aspects is one of contract. In the development and establishment of this right of contract on the part of workmen, is written the history of labor.

In the early days of civilization work was performed largely by slaves. No employment contract then generally obtained, because the employer was the owner, not only of the land and the implements of production, but of the workmen themselves. It is significant, however, that as early in history as 500 B. C. engineering works were constructed, at least partially, by free workmen employed under contract. As human beings gradually emerged from slavery, the rights of the employed were slowly extended. But for many centuries the limitations on these rights were so substantial as narrowly to limit the degree of freedom.

The serfdom became the prevailing condition for the employed during the Middle Ages, custom and economic requirements produced checks on the sway of the masters which proved to some extent effectual, even when legal protection was insufficient. With the coming of an industrial and commercial age, serfs were gradually emancipated

and the institution of serfdom melted away. Through this long process the worker slowly advanced from one kind of servitude to another less galling, and his right to contract for employment became gradually less subject to restraint. It was not, however, until within the memory of men still living that it ceased to be a penal offense, under the laws of England, and in some of our States, for two or more workmen to combine to quit work, in order to secure increased wages or improved working conditions.

Modern large scale production and the introduction of the great corporation have brought also the organization of labor into strong associations, which may contract with employers for employees as a group. The process of development goes on and employers and employees slowly advance toward the larger liberties and the more serious responsibilities which follow.

It may aid in comprehending the work of the Conference to recall that the present condition of freedom has come about not so much from positive laws as from the removal of restrictions which the laws impose upon the rights and the freedom of men. The Conference confesses that in the prosecution of its work it has been animated by a profound conviction that this freedom that has been wrought out after many centuries of struggle should be preserved.

2. COLLECTIVE BARGAINING

Two of the most highly controversial questions which have come before the Conference are collective bargaining and the obligation to carry out the collective bargain when made.

The term "collective bargaining," as herein used, means negotiation between an employer or an association of employers on the one side and the employees acting as a group, on the other. There are two types of collective bargaining as thus defined; one in which the employees act as a group through the trade- or labor-union; the other in which they act as a group through some other plan of employee representation.

An analysis of the heated controversies that are current with reference to collective bargaining indicates that the

employees place the emphasis on the *right* of wage-earners to bargain collectively, and that the employers place the emphasis on the *right* of employers to bargain or refuse to bargain collectively at their discretion.

The Conference believes that the matter is not advanced materially by the assertion of the right, on the one side, to bargain collectively, or on the other side, of the right to refuse to bargain collectively; as abstract rights both undoubtedly exist. The real question, however, is whether, as a matter of policy, better relationships between employers and employees will be promoted, and a more effective industrial organization for the nation will be brought about, if a system of collective bargaining is adopted.

On the question of policy, the principal difference relates to the machinery through which the collective bargaining is carried out. While there are some employers who still insist upon the policy of dealing with their employees individually, and not as a group, we think their number is diminishing. Many employers, however, object to collective bargaining through the trade-union, on the ground that its agents are often not truly representative of their employees, that they are often uninformed in regard to the technical details of the business involved, and that, instead of feeling concern for the success of this business upon which the welfare of the employees as well as of the employers vitally depends, they care primarily for the success of the unions which they represent.

On the other hand, employees often object to collective bargaining through employee representatives, on the ground that such spokesmen, because themselves employees, are too dependent upon the employer, and too much under his influence to be good negotiators.

The Conference is in favor of the policy of collective bargaining. It sees in a frank acceptance of this principle the most helpful approach to industrial peace. It believes that the great body of the employers of the country accept this principle. The difference of opinion appears in regard to the method of representation. In the plan proposed by the Conference for the adjustment of disputes, provision is made for the unrestricted selection of representatives by

employees, and at the same time provision is also made to insure that the representatives of employees in fact represent the majority of the employees, in order that they may be able to bind them in good faith. The Conference believes that the difficulties can be overcome and the advantages of collective bargaining secured if employers and employees will honestly attempt to substitute for an unyielding, contentious attitude, a spirit of cooperation with reference to those aspects of the employment relation where their interests are not really opposed but mutual.

Essential to the success of collective bargaining is a clear realization by both sides of the obligations which it imposes, and of the limitations of these obligations. The collective bargain usually relates to standards only, such as the rate of wages to be paid, the hours to constitute a day's work, and the conditions under which the work is to be performed. There is also usually a specified time during which the agreed standards are to be maintained. The agreement imposes on the employer the obligation to observe these standards if he provides work. It does not bind him to provide work. Similarly, it imposes on employees the obligation to accept the agreed standards so long as they remain at work. It does not bind them to continue in employment.

Under a collective bargain establishing standards, an employer acting in good faith may close down his plant, in whole or in part, without breach of his obligation. On their side the employees may resign their positions without breach of their obligation. In such case the employer, however, is free to fill without interference the positions so voluntarily vacated.

The obligation involved in a collective agreement on standards is sometimes thought of as a binding agreement by which the employees are obliged to continue in employment, altho the right of the employer to shut down his plant has rarely been questioned. This is a one-sided interpretation of the agreement which would give the employer, without any reciprocal obligation, a virtual call on the services of his employees. Such an interpretation is obviously unfair.

The above statements do not mean that during the period

of the agreement the employer may "lockout" or the employees may "strike," the purpose being to change the standards by means of economic pressure. A "strike" is not merely a withdrawal from employment; it is an effort to secure better terms for the positions held. Similarly, a "lockout" is something more than a temporary discontinuance of production; it is an attempt to force employees to accept lower standards. Both involve breach of a collective bargain on standards and are unjustifiable.

The Conference has given a great deal of consideration to the whole question of enforcement of collective bargains once entered upon. As shown above, bargains of this character do not lend themselves readily to legal enforcement. The social and legal forces that surround the problem are of the most complex order and must be a matter of development in the community. The Conference believes that for the present at least, enforcement must rest substantially upon good faith. It is obvious that the essence of success in collective bargaining lies in the fidelity of both sides to agreements.

3. HOURS OF LABOR

Hours of labor, wages and women and children in industry, should be approached from the aspect both of the health and welfare of the workers, and of the efficient use of the country's resources in man-power over a prolonged period of time. The nation is not interested primarily in what one or another body of its citizens may believe to be for their immediate personal advantage; it is interested fundamentally in the progressive development of the physical, mental and spiritual well-being of its citizens. The question as to what constitutes this well-being under the complicated conditions of modern industrial life cannot be easily determined offhand, but must be based upon a body of fact, accurately ascertained from experience.

The problem of hours has undergone a fundamental change through the introduction of large scale factory production and the growing concentration of our population in cities. Men and women can work relatively long hours at work which is interesting, which calls upon their various energies, which gives some opportunity for creative self-

expression. Work which is repetitive, monotonous and conducted under the confining indoor conditions of even the best industrial plant, especially where the plant is located at a distance from the homes of the workers, makes much more exacting physical and nervous demands. If the inevitable conditions of modern industry do not offer variety and continuing interest, the worker should have hours short enough for more recreation, and for greater contact with his fellowmen outside of working hours.

Studies should be made in each industry, (preferably by the industry, but in its default, by the appropriate government agency) of the problem of industrial fatigue in relation to production, to determine on the basis of experience; first, what schedule of hours is consistent with the health and well-being of the workers; and, second, the hour schedule within the above limitations, which will afford the maximum productivity in the industry. It should be recognized by employees and employers, and primarily by the public, that hours schedules which are below the standard of maximum productivity must necessarily reduce the total industrial product, and consequently reduce the standard of living, or increase prices. Such reduction in all industry will necessarily reduce the total industrial product of the nation and the standard of living will be reduced by that much below the attainable maximum. This fact should be taken into account in connection with the advantages, in other directions, to the worker which may accrue from such a shortening of hours.

Studies which have already been made in some industries indicate that long hours do not in general result in maximum production. The Conference believes that some industries are now operating, in part at least, on hours schedules which are above the standard of maximum productivity, and which in any case do not allow employees proper opportunity for rest and recreation. There are large basic industries which still employ substantial numbers of their men in exhausting work for eighty-four hours per week and longer. Such conditions are opposed to public interest, are contrary to every instinct of human development, and are a pregnant cause for industrial and political unrest.

It is perhaps unnecessary to point out that the conditions of various industries make any universal standardization of hours unnecessary and unwise. For example, the seasonal and intermittent nature of agricultural work and the fact that it is carried on under out-of-door conditions which are not essentially detrimental to the well-being of the worker, would naturally exclude agriculture from the class of industries in which the work is confining and repetitive.

The Conference believes that experience has demonstrated that in fixing hours of labor in industrial establishments at a point consistent with the health of the employees, and with proper opportunity for rest and recreation, there should in all cases be provided for one day's rest in seven.

The Conference believes that in most factories, mines and workshops, and especially in repetitive work, the present trend of practise favors a schedule of hours of not more than forty-eight hours per week.

The Conference does not think that a schedule of hours substantially less than the forty-eight hour standard now in operation is at this time desirable, except in industries where a scientific study of the problem on the basis already outlined, indicates that such reduction is necessary for the protection of the health and safety of the workers and is in the public interest.

The practise in some industries, of arranging by mutual agreement of employer and employees for a Saturday half holiday, without reduction of the weekly schedule of hours, has great advantages. Hours of labor schedules should be arranged on a weekly basis, and overtime should not be permitted except in case of temporary emergency.

It should moreover be borne in mind that further reduction of hours below this standard in any industry will throw an extra burden upon other industries, and may especially prejudice agricultural communities who already feel the growing competition of the cities in drawing away workers from the farm.

4. WOMEN IN INDUSTRY

Women cannot enter industry without safeguards additional to those provided for men, if they are to be equally

protected. The danger of exploiting their physical and nervous strength with cumulative ill effects upon the next generation is more serious and the results are more harmful to the community. Special provision is needed to keep their hours within reason, to prohibit night employment in factories and workshops, and to exclude them from those trades offering particular dangers to women.

Where women can and do perform work of equal quality and quantity as compared with that of men under similar conditions, they should receive equal pay. They should not be discriminated against in respect to opportunities for training and advancement, or the representation of their interests.

5. CHILD LABOR

The Federal Government has already recognized the unsoundness in the economic use of the nation's resources of permitting the entrance of young children into industry. Such a practise results in the progressive degeneration of the race and tends to impair the human resources of the country on which the coming generation must rely. The matter can not wisely be left to the sole initiative of the separate States. Such a course is not only unfair to the States which have attempted to deal with the problem. It places a premium upon States which are willing to subordinate the future well-being of their citizens to a present questionable competitive advantage in industry.

In considering child labor, as well as in other aspects of the industrial problem, a differentiation should be made between the various employments which children enter. The entrance of children of tender years into a mill or factory tends to stunt their development, and injure the race. The argument that the child is thus enabled to learn a trade is unsound. For the trade may be more quickly learned, with greater opportunity for subsequent progress, by a boy of sixteen who has spent ten years in elementary schooling, than by a boy who loses the opportunity for intellectual and sound physical development by entering the mill at ten or twelve. On the other hand, the employment of children in agriculture may, if wisely supervised, develop physique

and lay a good foundation for their more formal education in the country school.

But sheer prohibition of child labor is, at best, only a negative attack upon the problem. It is not thoroughly effective in promoting the economic welfare of the nation unless the time now spent by the child in industry is devoted to adequate schooling and to activity which will develop his physical well-being. We must not only protect our children from the physical degeneration which results from an early entrance into the mill or factory, we must enable them by education to take their place in society.

It is a startling fact that of the 5,516,163 illiterate persons of over ten years of age in the United States at the last census, over 68 per cent were native born. There were approximately as many native born white illiterates as there were foreign born. The problem is not therefore solely or primarily due to the large influx of foreign men and women from the less literate countries of Europe. It is primarily a condition of illiteracy among our own people, and the lowest percentage of illiteracy (1.1 per cent) was among the native born children of foreign or mixed parentage.

Not only are the prohibition of child labor and provision for compulsory elementary education complementary; the age limits for those two classes of legislation should be, as far as possible, the same.

Up to the present, the Federal Government has not been able to deal comprehensively with the subject of child labor. The present federal child labor tax law imposes a tax of 10 per cent upon the net profits of any mine or quarry which employs children under sixteen years of age, and of any manufacturing establishment which employs children under fourteen. It makes no provision which assures the non-employment of children in street trades and various blind alley occupations during the time they should be at school.

The fact that the former federal child labor law has been declared unconstitutional should not be interpreted as registering or encouraging popular sentiment against such legislation but rather as occasion for arousing public sentiment in the interests of the rights of childhood.

The intimate relation between these rights and both compulsory education and child labor legislation suggests that the ideal solution of the problem would be a reasonable uniformity by all the States in their legislation upon these topics. The Conference, believing that the education and welfare of the childhood of the country is not entirely a local interest, urges upon all States not having adequate legislation upon child labor and compulsory education that they give these topics prompt and sympathetic consideration. Already in forty States compulsory education up to the age of sixteen, with certain exceptions, has been provided for. This has opened the way for consistent legislation upon the question of child labor. Under legislation of this character experience is rapidly demonstrating that the economic, as well as other vital interests of the country, are best conserved by lengthening the period of education. This makes possible a normal physical, intellectual and social development of the youth of the country.

6. HOUSING

It is unnecessary to point out the intimate relation which exists between efficient production and the conditions of life to which a man or woman returns at the close of a day's work. When the employees of industry and commerce return to families who are housed in dwellings that are crowded, unsanitary, inconvenient, and unlovely, these men and women suffer in health and well-being, and consequently are unable to render that effective productive effort which the nation needs. The menace of these conditions can not be overlooked. Bad housing creates a destructive restlessness that swells the volume of industrial discontent. The relation of these factors is direct, the consequences obvious.

It must be borne in mind that during the years of the war, there was serious retardation of building operations outside of the immediate war time needs of the country. The cessation of hostilities was followed by a period of industrial readjustment which is resulting in a more rapid extension of the country's plant and factory facilities than has occurred for many years. No proportionate extension of housing facilities is accompanying this rearrangement.

The present condition of insufficient housing will therefore be seriously aggravated rather than improved.

Provision for adequate housing is a responsibility which must rest primarily upon the local community. Concerted action in all industrial communities is necessary to deal with the problem. The community, its employees, its employers, its banks, its citizens generally should promptly take stock of their present position and develop such a program as is called for by their local requirements. Measures should be developed to enable employees in permanently located industries to acquire, on proper terms, the ownership of their own homes, with protection against the dangers of real estate speculation and exploitation. The States should likewise initiate systematic inquiries into the subject, including the extension of proper building and housing codes, already successfully applied in many localities. The studies of the Federal Government in this field should be continued and emphasized.

7. WAGES

Considered from the standpoint of public interest, it is fundamental that the basic wages of all employees should be adequate to maintain the employee and his family in reasonable comfort, and with adequate opportunity for the education of his children. When the wages of any group fall below this standard for any length of time, the situation becomes dangerous to the well-being of the state. No country that seeks to protect its citizens from the unnecessary ravages of disease, degeneration and dangerous discontent, can consistently let the unhampered play of opposing forces result in the suppression of wages below a decent subsistence level. Above that point, there may well be a fair field for the play of competition in determining the compensation for special ability, for special strength or special risk, (where risk is unavoidable), but below that point the matter becomes one of which the State for the sake of its own preservation, must take account.

The nation is interested in the welfare of its citizens not only from the point of view of wages, but from the not unrelated one of productivity. If, therefore, the Conference

recommends the establishment of hours and wages on a basis of justice to employees, it must also recommend that the employees do their part in seeing that the productivity of the nation is safeguarded. The nation has a right to ask that employees impose no arbitrary limitation of effort in the prosecution of their work. Such limitation decreases the country's output, and if practised at all generally, is bound to result in a decline of the standard of living. It is gratifying that many leaders of organized labor are in agreement as to the unsoundness of such limitation of output, and are opposed to its practise.

If it is for the nation to insure that wages shall not sink below a living level, and for employees not to restrict production; it is incumbent upon employers to see that special effort and special ability on the part of their employees receive a stimulating compensation. If increased output and efficiency are met only by a reduction of piece prices, the incentive to such effort is taken away. Employees to do their best work must feel that they are getting a reasonable share of any increased return that they bring the industry. Labor incentive is a factor that it is as shortsighted to ignore as incentive to capital.

From this standpoint, the question of methods of wage payment is one that deserves careful study on both sides. Industries which have established facilities for mutual discussion of such questions, whether through unions or other forms of employee representation, are finding that it is possible at the same time to safeguard the worker from exploitation and to safeguard incentive to production.

8. PROFIT SHARING AND GAIN SHARING

Profit sharing is regarded in some quarters as a complete solution of industrial problems. The Conference believes that while it has promise in some directions, it can not by itself be considered to be of far-reaching effect. Profit sharing in its simplest form has met with success under certain conditions—sometimes where an unusual personality has contributed to a happy outcome—sometimes where the contribution of individual employees to the profits of an enterprise can be measured with some accuracy. It has proved of beneficial effect when applied to employees occu-

pying executive and management positions, and to sales organizations. Its extension to all the employees of typical manufacturing plants meets with difficulties. It is not easy to determine what part of the profits or losses of such plants are attributable to the efforts of the rank and file of the employees, or to apportion among them shares of profits which shall be steadily in accord with the spirit and the direct outcome of their individual efforts.

Nevertheless, the Conference thinks that the field is one in which sincere experiments may add a real knowledge of desirable procedure, and therefore that profit-sharing experiments should be welcomed, particularly when carried out as part of a consistent policy of bringing employer and employee together, and promoting among employees a sense of interest and responsibility. Like employee representation, its usefulness depends on the spirit in which it is organized and administered. A mechanical application, especially when accompanied with pretentious announcements and claims, may do more harm than good. The Conference can not see in profit sharing anything in the nature of a panacea, but it believes that, properly adapted to the character of the individual business, and carried out in a spirit of genuine mutuality, it may often better industrial relations. In order to accomplish the result aimed at, the allotted shares of profit obviously should be supplements to fair wages, and in no sense a substitute for fair wages, or in lieu of deductions therefrom.

There has been some promising experience in the cognate field of gain sharing. Here the employees in a particular department or subdepartment share in the gains in production and in reductions of cost which are accomplished by the joint efforts of the management and themselves. Under such plans the employees can see clearly the immediate relation between their own efforts and the resulting return. There enter no complicating factors of gains and losses made in the purchasing and selling departments for which the productive shop employees are in no way responsible. And here also the distribution to employees can be made at such frequent intervals as to bring into more immediate relation the effort and the return.

9. THRIFT AGENCIES

Good industrial management on the part of a nation will analyze preventable human losses and provide adequate resources for meeting them. Such losses in human efficiency could be lessened by more adequate agencies to promote thrift, in connection with provision against illness, old age, premature death and industrial accident.

There have been many plans of health insurance and old age insurance elaborated in other parts of the world and advocated in the United States. Without discussing whether such plans, when based upon government subsidy or compulsory action, are consonant with American ideals, the Conference believes that an extension and simplification of the insurance principle as a means of promoting thrift, saving and independence, would be advantageous to the people. The alternative to such insurance against sickness and old age lies in a wage adequate to cover these items. The Conference therefore suggests that the Federal Government should inaugurate a careful, authoritative investigation on the whole subject.

It feels that such investigation could well include such times as the possibility of converting the great multitude of small Liberty Loan Investments in the country (with all the attendant difficulty of collecting small amounts of interest) into some form of old age annuities. Such measures would extend the investment of savings in government securities, would be more economical in administration than present direct bond investments, and would be more stimulative to thrift and saving. A policy of this sort would furnish a method by which many industrial concerns and their agencies, which are endeavoring to make provision out of profits for old age security of their employees, could find a safe and helpful avenue for such investment.

The problem of health and of old age insurance, and its promotion by some means consonant with national ideals, demands consideration. If such means can be devised, they will furnish a relief to the States in the care of the ill, the indigent and the aged.

The entire subject needs careful investigation and public

discussion which could, with great advantage, be promoted by the Federal Government.

10. INFLATION AND THE HIGH COST OF LIVING

A prolific cause of unrest is the disturbance of economic equilibrium through the rapid increase in the cost of living. Remedy for this evil must be gradual, for sudden reduction of prices only comes through financial and industrial crises, which result in unemployment and suffering.

Increase in production during the past five years has not been at all commensurate with the expansion of currency and credits through war finance. Inflation during the past year moreover has proceeded at an increased rate, in the face of reduced production.

While the rise in the price of commodities parallels the increase in credit and currency inflation, and may by some be regarded as an effect and not a cause, and due to the shortage in world production, yet the parallel between the two sets of figures is illuminating.

Inflation must be dealt with through the wise restriction of credits by the banks, by increased production and by saving economy in consumption. If these forces were brought into play, speculation and profiteering would recede and the cost of living decrease. The readjustment must be gradual, or it will involve industrial and financial disturbances that will result in widespread unemployment and great hardship. If the advance of inflation is stopped, the opportunity for speculation will be diminished and amelioration of the situation will ensue without disturbance.

Since changes in the cost of living, and the readjustments they make necessary, must continue to be significant, it is vitally important that the Government maintain and even extend its machinery for investigating and reporting upon this phase of the industrial situation. The need for trustworthy and properly digested information in this field is necessarily an expanding need. During the war, the government made periodic investigations of the cost of living in the industrial centers of the country, as related to family budgets. Exact and reliable information is equally impor-

tant during the period of reconstruction through which we are now passing. In their commendable purpose of bringing the activities and expenditures of government back to a peace basis, those responsible for controlling appropriations are justified in giving full recognition to this fact. The Conference hopes that adequate appropriations for the continuance of effective investigation work and the publication of results may not be lacking.

11. PUBLIC EMPLOYEES

When men and women enter the public service they become a part of the machinery of government, and servants of the people. Continuous and effective service by these employees is not only essential, but constitutes the functioning of government. Even the right of the individual to retire is limited by his duty to give due notice, dependent upon the character of his service, so that there may be no cessation in its performance. Concerted retirement of any particular group from their post of duty may result in the paralysis of important public functions, and is nothing less than a blow at the government itself struck by those on whom rests the obligation of helping to conduct it.

The government is entitled to the best quality of service, and to be assured of this, there should be frank recognition of the right of its employees to just compensation. Salaries or wages not properly comparable with those paid in private employment naturally result in failure to attract to and retain in these positions the best qualified employees, and result also in discontent reflected in an impaired service.

The increased cost of living since 1914, has fallen heavily upon professional, clerical and administrative employees. Some overdue readjustments have lately been made, or are in process of being made, yet the fact remains that, as the cost of the necessities of life has mounted, many classes of salaried government servants have not received the relief that has been given in many branches of private employment.

Among those employees who suffer most acutely have

been the teachers in our schools. Their situation in many parts of the country has become deplorable. Thousands of them, trained in their profession, with a high and honorable pride in it, have been literally forced to leave it, and to resign what had been their hope, not of wealth, but of loyal service in building the foundation of knowledge and character upon which our national strength must rest. In consequence there is everywhere a shortage of teachers. An inquiry made by the Bureau of Education showed that in January, 1920, more than 18,000 teachers' positions in the public schools of the country were then vacant because the teachers to fill them could not be had. Over 42,000 positions are filled, in order that they may be filled at all, by teachers whose qualifications are below the minimum standard of requirement in the several states. It is the estimate of the Commissioner of Education that more than 300,000 of the 650,000 school teachers of the country are to-day "below any reasonable minimum standard of qualifications." Many of those who remain in our schools receive less pay than common laborers, despite the long years of preparation for their profession that they have undertaken. This situation is a national menace. It is useless to talk of Americanization and of the diminution of illiteracy and other national educational problems, unless it is faced at once.

The conduct of the great body of these public employees, under conditions which have brought acute hardship in many instances, has demonstrated their loyalty to the sound principle that there should be no interference with the continuous functions of the government.

Since the principle involved requires the surrender of resort to the strike, the obligation of providing means whereby their interests may be safeguarded and their grievances given prompt and effective consideration is emphasized. Unless government employees are fairly treated, we can not expect from them the conscientious attitude toward their work which produces the highest efficiency. The government must be a just employer.

The Conference believes that the present method of fixing the compensation of many public employees is inade-

quate, and that it does not provide for that periodical revision which is essential when the cost of living, and the consequent purchasing power of wages, are shifting rapidly. Therefore it has attached to its proposed plan of adjustment, a section in which provision is made for meeting this need. Findings of any adjustment machinery in the case of public employees must necessarily have the force merely of recommendations to the government agency having power to fix wages, hours and working conditions of the employees concerned. As a matter of principle, government is not in a position to permit its relation with its employees to be fixed by arbitration. The plan, as modified, therefore avoids arbitration. There is, in the case of public employees, no appeal to the National Industrial Board and no reference to an umpire. The Board of Inquiry is also omitted from the modified plan.

It is desirable that the utmost liberty of action should be accorded government employees, wholly consistent, however, with the obligations they are under to the State. No objection should be interposed to their association for mutual protection, the advancement of their common interests and the presentation of grievances. On the other hand, the government has a right to expect and to receive from them undivided loyalty.

Government employees individually are free to leave the service, but no group should be permitted to strike or to threaten concerted cessation of work. This opinion is expressed in the constitutions of a number of employees' organizations, and the principle should be generally accepted.

The further question arises as to the propriety of such organizations, or their members, affiliating with other organizations who hold to the right to strike.

Policemen and others, whose duties relate to the administration of justice and the preservation of life and property, should not join, or retain active membership in, or be affiliated with organizations that resort to the strike. This conclusion is based upon the principle that they should be above any suspicion in the public mind of partiality in the discharge of their official duties.

For many years union labor refused to grant charters

to policemen's unions, and this policy has the stamp of public approval to-day.

The case of members of fire departments is analogous. Their functions are closely associated with those of the police. They are likewise charged with the protection of life and property and are subject to call in case of riot. Altho for some years charters have been granted to firemen's unions by organized labor, a number of these have lately been surrendered, in deference to the weight of public opinion.

In denying to policemen and others, whose duties relate to the administration of justice, and the preservation of life and property, the privilege of striking, and of affiliating with outside labor organizations, society must recognize that a double emphasis is placed upon the obligation fairly to compensate these special public servants, and to insure the prompt consideration of the grievances which they may individually, or by right of association among themselves, collectively present.

The Conference has been unable to agree upon any recommendation as to the propriety of the affiliation of other classes of public employees, with organizations which resort to or support the strike.

12. AGRICULTURE

In urging greater production as vital to the general prosperity, it should be kept in mind that the large issue of agricultural production is profoundly influenced by the competitive conditions between the factory and the farm, as to wages, hours and conditions of work. Any condition which puts hired help beyond the ability of the farmer to afford, thus limiting food production to that possible with the farmer's own labor and that of his family, will emphasize the tendency to reduce agricultural production, to lower the efficiency of the farm, to modify unfavorably the American standards of farm life, and to increase the cost of living. Any condition that reduces the buying power of farmers as a whole will tend to destroy a well balanced economic relation between industrial and agricultural pro-

ducers, under which each should be the largest and best customers for the products of the other.

The insistent demand for reduction of the cost of living has directed attention to the fact that the cost of material is but a small part of the cost to the ultimate consumer. On the farm the increased cost of the materials consumed, of labor, of fertilizers, of machinery and of the other factors of production has greatly increased the cost of production. There can be no substantial reduction in the price of farm products until the factors entering into the farmer's cost have been taken into account. The gross receipts of the farm are a false standard by which to measure the farmer's pay for his own labor or the returns on his investment. Any adjustment of economic relations which overlooks these fundamental conditions will, in the effort to allay unrest in one circle, tend to increase it in another.

There is a broad national problem in the disparity of human effort applied to agriculture and that applied to general industry. If the conditions of labor and effort in general industry are to be relaxed below the standards in agriculture, it can only result in an increased burden on agriculture, with a sequel of diminished agricultural production. If, under such disparity of effort, general industry can still find an outlet for its commodities in export trade, it means ultimately the dependence of the United States on imported food. It means the upbuilding of large industrial centers, with all their train of human problems.

From the standpoint of the physical and moral development of the people as a whole, the Conference believes it would be a disaster to exaggerate industrial development at the cost of agriculture. The industrial population can look forward neither to ultimate safety nor to an increasing standard of living from such a shift of national activities.

The present system of distributing foodstuffs in the United States imposes an unnecessarily large cost upon consumers and reacts to depress the returns from agriculture. A considerable portion of this cost of distribution arises necessarily from the wide separation of food producing areas from the centers of population. Other necessary items of cost arise out of the fact that products can not

always be marketed at the season when they are produced, and therefore have to be stored. There are, however, in the inevitable chain of distribution and inherent speculation many unnecessary links.

The present distribution of food is inherently and necessarily upon a speculative basis, because each agency that handles the product is speculating upon its ability to find supplies on the one hand and customers on the other. The Conference believes that cooperation among consumers in the purchase of their supplies, and among producers in the marketing of their products, will tend to stabilize both demand and supply, and offer legitimate opportunity for reduction in the margin between producer and consumer.

13. UNEMPLOYMENT AND PART TIME EMPLOYMENT

One fundamental problem which underlies any consideration of the effective use of the productive capacities of our country, is the problem of unemployment. So long as a great body of men and women capable of doing productive work are unemployed, the total industrial output of the nation will be, by that much, less than the attainable maximum.

The human side of the problem is even more important than its economic aspects. Economic aspects are important only because of their relation to human welfare. The fear of unemployment is the permanent pervading background for a large number of our population. The fact of unemployment is a breeder of discontent, resentment and bitterness.

There is no single solution. Urgent need exists for an immediate and thorough study of the problem by individual industries so that analysis of the conditions in each may suggest appropriate measures of amelioration. Otherwise, the country will be confronted with the demand for legislation still on trial in those countries which have adopted it, and will be without the information necessary to a wise choice of remedies. The situation presents a challenge to American ingenuity and initiative, to develop methods suitable to our industrial fabric and consonant with American institutions.

Part time employment is closely related to unemployment. Its principal causes are, first, seasonal demand for the products; second, insufficient car supply at the time when delivery is required; third, individual or collective dissatisfaction with the wages and conditions of employment; fourth, breakage in the equipment of the plant. The aggregate economic loss from these causes is enormous, and the individual hardships produced are frequently important factors in industrial unrest.

Earnest and partially successful efforts are being put forth in the needle trades to overcome the injurious effects of seasonal occupation, by using the product as a basis of credit to finance continuous operations, instead of rushing the work in four separate seasons within the year. Methods are now being devised by the Coal Commission to solve the first and second questions, in connection with coal mining operations, by having the railroads, public utilities, steel plants, and other large consumers purchase and store the largest portion of their coal supply during the dull season in the trade, thereby relieving the congestion during the busy season, and making the car supply more universally available throughout the year. The need for such steps is emphasized by the fact that in the bituminous coal industry there is apparently a loss, through broken time, of approximately ninety days per employee per year. As a result of this condition, thirty per cent more men than would otherwise be needed are engaged in mining the country's coal, and the wages of the men are consequently less than the attainable maximum.

The present efforts embody the first systematic attempt to find a remedy. The experiments have not been of sufficient magnitude or duration to give a proper estimate of the possible results, but the Conference is of the opinion that efforts of this character should be encouraged in all of the industries that lend themselves to such arrangements, and methods should be provided by which credits can be furnished for carrying the purpose into effect, properly safeguarded to protect the public against hoarding a greater amount of material than the ensuing period of seasonal demand can absorb.

There are certain fields of activity in which these methods cannot be applied, such as the building industry, but even in these fields substantial relief can be obtained. It is well known that a considerable number of men engaged in building occupations, are by virtue of the nature of the work, compelled to move from place to place where buildings are being erected, in order to secure a maximum of employment. They have, therefore, in many instances acquired migratory habits. Building operations are no longer purely local. Such enterprises frequently extend into a number of States, East and West, North and South. By a common understanding among architects, builders and workmen, outdoor work in the South can be planned for and conducted during the late fall, winter and early spring, so as to provide for the surplus migratory labor from the North. The work in the North can be so arranged as to get the largest possible amount under cover before the inclemency of winter prevents outdoor operations. By this means employment can be provided during the dull season for a very considerable amount of resident labor.

The erection of public works by government, local and federal, has a direct relation to the subject, and may be made one of the most useful approaches to the general problem of unemployment and part time employment. If large public works programs are undertaken at times, either of general unemployment or of local seasonal periods of low employment demand, they will provide substitute employment for large numbers of men, and substantially reduce the individual hardships of the workers and the economic loss to the community. If, on the other hand, programs of road building and other public work are initiated at times of general industrial activity, and at seasons of high agricultural demand for labor, the activities of the state may seriously hamper private initiative, may place an unnecessary burden upon farmers, and will preclude the possibility of applying such work to alleviate unemployment.

The third cause, namely, individual or collective dissatisfaction with the wages and conditions of employment, leads into the consideration of one of the great phenomena in American industrial life—the so-called turnover of labor.

There is no other country in the world where the turnover of labor is so tremendous. In normal times it is nothing unusual to find establishments in which the turnover is two hundred to three hundred per cent per annum; that is, in which it requires the hiring of two hundred to three hundred workmen during the year to maintain an organization of one hundred. Such a condition naturally reduces efficiency. There is not only the loss of time incident to the change of men, but no man can be thoroughly efficient in his job until he has become familiar with his machine, his shop, the characteristics of his shopmates and foreman, and the hundred and one other details that go to make up the sum total of his shop surroundings. Turnover is the individualistic strike. It represents the unorganized workman dissatisfied with conditions, or the organized workman unable or unwilling to interest his fellows in a collective protest. It produces in the aggregate much more loss of time than is involved in all of the strikes of trade-unions, or spontaneous collective protest. The causes are numerous and vary with different shops and different communities. They may exist within the shop itself or in the conditions outside of the shop. The lack of proper housing and transportation facilities increases the movement of workmen from job to job. Instances of this sort are on record in which the turnover has been as high as one hundred per cent a week for a prolonged period. No efficiency can be obtained under such circumstances.

The Conference recommends that some agency in every establishment be specifically intrusted with the duty of inquiring into and, as far as possible, correcting the conditions that produce such grave and undesirable results.

The fourth cause, namely, breakage in the equipment of the plant, is so directly a problem of management, and has such immediate bearing upon the return on the capital invested, that engineering skill is being continuously applied to reduce it to a minimum. Except as concerns safety, this cause therefore, may be properly entrusted to the intelligent self-interest of the management. Where that is not sufficient to promote safety, it is the duty of the state to step in, as

it has done very generally, and use its police powers in protecting the health and safety of workers.

14. PUBLIC EMPLOYMENT CLEARING HOUSE

The problem of unemployment is aggravated by the fact that at the present time there is no adequate method for mobilizing such a so-called labor reserve as, in spite of all efforts to reduce unemployment, may at any given time actually exist. At the present time there are many labor reserves but no mobilized reserve. The creation of a Federal Reserve System is banking has mobilized and coordinated the nation's credit reserves. Under such a system the nation can transact a larger volume of business on a given capital and credit than would be attainable under a system of separate banks acting individually in their localities. Similarly the country's productive capacity can be increased by the creation of a unified system of labor exchanges, making what is in effect a single labor reserve that can be drawn on by industry in any part of the nation.

The Conference recommends establishing a system of employment exchanges, municipal, state and federal, which shall in effect create a national employment service. The employment problem is in the first instance a local problem. The first objective must be the placement of local men in local establishments in order to keep as large a number of the employees as possible at home with their families. But no purely local approach to the problem is, or can be effective. Labor surplus and labor shortage exist side by side within the country at the same time, altho not necessarily within the same State. Carpenters or machinists may be out of work in Chicago at the same time that there is a demand for such artisans in Pennsylvania.

Perhaps more important is the constant problem of bringing labor from the towns and cities to the farms, both locally, and in times of great seasonal demand for farm operations when the need of the farmer requires the more extensive transfer of labor, from both his own and neighboring States.

Experience during the war has proved these general prin-

ciples to be true in a period of high employment demand; they are even more generally applicable in normal times. Until a system shall exist for the gathering of information by the municipalities and States, and its exchange through a federal agency, jobs will be seeking workers and workers seeking jobs at the same time but at different places, and a consequent national loss in production will result.

The matter is not, and can not be satisfactorily dealt with merely by private agencies, local and competitive in character, and operating at best within a narrow geographic field. The nation has so vital and persisting an interest in maintaining the industrial product, and in reducing the hardships due to unemployment, that it must interest itself in the problem.

At the present time seventeen States maintain public employment offices. The work of these agencies was coordinated during the period of the war through the United States Employment Service—a federal agency which furthermore opened offices in States having no state service, and thus established a system national in scope. This system has virtually lapsed with the return of the country to a peace footing.

To secure decentralized administration in the States, under the supervision of its citizens, to avoid the establishment of a federal bureaucracy, to foster the development of such service throughout the nation, the Conference recommends the enactment of appropriate legislation by the Congress, making provision for an employment clearing-house under federal control, which shall allot to the several States that have established, or shall establish state employment offices, their proportionate share of the federal appropriation, but not exceeding to any State the amount that shall be appropriated from state funds for this purpose. This cooperative relation between federal and state governments has been followed in other fields and may well be extended to the employment field.

Such a service, if it is to succeed, must obviously have the full cooperation of employers and employees. The war emergency developed some weaknesses in administration, which in the opinion of the Conference can wisely be cor-

rected in the light of such experience. To justify the co-operation of both parties the needs of both must be served impartially. To insure such service, the Conference recommends that committees equally representative of employers and employees be selected to advise and assist in administration.

V. CONCLUSION

In presenting these recommendations the Conference desires to emphasize that they are not merely designed to tide over a troublesome period of economic readjustment. Many of the evils which we have pointed out were in existence before the war, and will remain in existence, if steps are not taken to remedy them. The machinery of cooperation and adjustment which we recommend we believe to have permanent value, as an agency of industrial progress. At the same time, it should be borne in mind that to-day, when the sense of the magnitude and danger of social unrest is still acutely upon us, when we have not yet reverted to settled habits of thought and action, when our economic life is still in a state of readjustment, it may be possible to establish ideals and set up machinery which the inertia of a later day may defeat. Not with any feeling of panic, not with any hysterical haste, but sanely and sensibly we urge that these reforms be put into effect. And we do so with the belief that they will not only contribute largely toward the elimination of the causes of industrial strife, but that they will make for the introduction, in American industry, of those democratic principles which constitute the most precious heritage of the American citizen.

WILLIAM B. WILSON, *Chairman*

HERBERT HOOVER, *Vice Chairman*

MARTIN H. GLYNN
THOMAS W. GREGORY
RICHARD HOOKER
STANLEY KING
SAMUEL W. MCCALL
HENRY M. ROBINSON

OSCAR S. STRAUS
HENRY C. STUART
WILLIAM O. THOMPSON
FRANK W. TAUSSIG
HENRY J. WATERS
GEORGE W. WICKERSHAM

JULIUS ROSENWALD
GEORGE T. SLADE

OWEN D. YOUNG

WILLARD E. HOTCHKISS,
HENRY R. SEAGER,

Executive Secretaries.

March 6, 1920.

APPENDIX G

EXCERPT FROM TRANSPORTATION ACT, 1920

TITLE III.—DISPUTES BETWEEN CARRIERS AND THEIR EMPLOYEES AND SUBORDINATE OFFICIALS

SEC. 300. When used in this title—

(1) The term “carrier” includes any express company, sleeping-car company, and any carrier by railroad, subject to the Interstate Commerce Act, except a street, interurban, or suburban electric railway not operating as a part of a general steam railroad system of transportation;

(2) The term “Adjustment Board” means any Railroad Board of Labor Adjustment established under section 302;

(3) The term “Labor Board” means the Railroad Labor Board;

(4) The term “Commerce” means commerce among the several States or between any State, Territory, or the District of Columbia and any foreign nation, or between any Territory or the District of Columbia and any State, or between any Territory and any other Territory, or between any Territory and the District of Columbia, or within any Territory or the District of Columbia, or between points in the same State but through any other State or any Territory or the District of Columbia or any foreign nation; and

(5) The term “Subordinate Official” includes officials of carriers of such class or rank as the Commission shall designate by regulation formulated and issued after such notice and hearing as the Commission may prescribe, to the carriers, and employees and subordinate officials of carriers, and organizations thereof, directly to be affected by such regulations.

SEC. 301. It shall be the duty of all carriers and their

officers, employees, and agents to exert every reasonable effort and adopt every available means to avoid any interruption to the operation of any carrier growing out of any dispute between the carrier and the employees or subordinate officials thereof. All such disputes shall be considered and, if possible, decided in conference between representatives designated and authorized so to confer by the carriers, or the employees or subordinate officials thereof, directly interested in the dispute. If any dispute is not decided in such conference, it shall be referred by the parties thereto to the board which under the provisions of this title is authorized to hear and decide such dispute.

SEC. 302. Railroad Boards of Labor Adjustment may be established by agreement between any carrier, group of carriers, or the carriers as a whole, and any employees or subordinate officials of carriers, or organization or group of organizations thereof.

SEC. 303. Each such Adjustment Board shall, (1) upon the application of the chief executive of any carrier or organization of employees or subordinate officials whose members are directly interested in the dispute, (2) upon the written petition signed by not less than 100 unorganized employees or subordinate officials directly interested in the dispute, (3) upon the Adjustment Board's own motion, or (4) upon the request of the Labor Board whenever such board is of the opinion that the dispute is likely substantially to interrupt commerce, receive for hearing, and as soon as practicable and with due diligence decide, any dispute involving only grievances, rules, or working conditions, not decided as provided in section 301, between the carrier and its employees or subordinate officials, who are, or any organization thereof which is, in accordance with the provisions of section 302, represented upon any such Adjustment Board.

SEC. 304. There is hereby established a board to be known as the "Railroad Labor Board" and to be composed of nine members as follows:

(1) Three members constituting the labor group, representing the employees and subordinate officials of the carriers, to be appointed by the President, by and with the

advice and consent of the Senate, from not less than six nominees whose nomination shall be made and offered by such employees in such manner as the Commission shall by regulation prescribe;

(2) Three members, constituting the management group, representing the carriers, to be appointed by the President, by and with the advice and consent of the Senate, from not less than six nominees whose nominations shall be made and offered by the carriers in such manner as the Commission shall by regulation prescribe; and

(3) Three members, constituting the public group, representing the public, to be appointed directly by the President, by and with the advice and consent of the Senate.

Any vacancy on the Labor Board shall be filled in the same manner as the original appointment.

SEC. 305. If either the employees or the carriers fail to make nominations and offer nominees in accordance with the regulations of the Commission, as provided in paragraphs (1) and (2) of section 304, within thirty days after the passage of this Act in case of any original appointment to the office of member of the Labor Board, or in case of a vacancy in any such office within fifteen days after such vacancy occurs, the President shall thereupon directly make the appointment, by and with the advice and consent of the Senate. In making any such appointment, the President shall as far as he deems it practicable, select an individual associated in interest with the carriers or employees thereof, whichever he is to represent.

SEC. 306. (a) Any member of the Labor Board who during his term of office is an active member or in the employ of or holds any office in any organization of employees or subordinate officials, or any carrier, or owns any stock or bond thereof, or is pecuniarily interested therein, shall at once become ineligible for further membership upon the Labor Board; but no such member is required to relinquish honorary membership in, or his rights in any insurance or pension or other benefit fund maintained by, any organization of employees or subordinate officials or by a carrier.

(b) Of the original members of the Labor Board, one

from each group shall be appointed for a term of three years, one for two years, and one for one year. Their successors shall hold office for terms of five years, except that any member appointed to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. Each member shall receive from the United States an annual salary of \$10,000. A member may be removed by the President for neglect of duty or malfeasance in office, but for no other cause.

SEC. 307. (a) The Labor Board shall hear, and as soon as practicable and with due diligence decide, any dispute involving grievances, rules, or working conditions, in respect to which any Adjustment Board certifies to the Labor Board that in its opinion the Adjustment Board has failed or will fail to reach a decision within a reasonable time, or in respect to which the Labor Board determines that any Adjustment Board has so failed or is not using due diligence in its consideration thereof. In case the appropriate Adjustment Board is not organized under the provisions of section 302, the Labor Board, (1) upon the application of the chief executive of any carrier or organization of employees or subordinate officials whose members are directly interested in the dispute, (2) upon a written petition signed by not less than 100 unorganized employees or subordinate officials directly interested in the dispute, or (3) upon the Labor Board's own motion if it is of the opinion that the dispute is likely substantially to interrupt commerce, shall receive for hearing, and as soon as practicable and with due diligence decide, any dispute involving grievances, rules, or working conditions which is not decided as provided in section 301 and which such Adjustment Board would be required to receive for hearing and decision under the provisions of section 303.

(b) The Labor Board, (1) upon the application of the chief executive of any carrier or organization of employees or subordinate officials whose members are directly interested in the dispute, (2) upon a written petition signed by not less than 100 unorganized employees or subordinate officials directly interested in the dispute, or (3) upon the Labor Board's own motion if it is of the opinion that the

dispute is likely substantially to interrupt commerce, shall receive for hearing, and as soon as practicable and with due diligence decide, all disputes with respect to the wages or salaries of employees or subordinate officials of carriers, not decided as provided in section 301. The Labor Board may upon its own motion within ten days after the decision, in accordance with the provisions of section 301, of any dispute with respect to wages or salaries of employees or subordinate officials of carriers, suspend the operation of such decision if the Labor Board is of the opinion that the decision involves such an increase in wages or salaries as will be likely to necessitate a substantial readjustment of the rates of any carrier. The Labor Board shall hear any decision so suspended and as soon as practicable and with due diligence decide to affirm or modify such suspended decision.

(c) A decision by the Labor Board under the provisions of paragraphs (a) or (b) of this section shall require the concurrence therein of at least five of the nine members of the Labor Board: *Provided*, That in case of any decision under paragraph (b), at least one of the representatives of the public shall concur in such decision. All decisions of the Labor Board shall be entered upon the records of the board and copies thereof, together with such statement of facts bearing thereon as the board may deem proper, shall be immediately communicated to the parties to the dispute, the President, each Adjustment Board, and the Commission, and shall be given further publicity in such manner as the Labor Board may determine.

(d) All the decisions of the Labor Board in respect to wages or salaries and of the Labor Board or an Adjustment Board in respect to working conditions of employees or subordinate officials of carriers shall establish rates of wages and salaries and standards of working conditions which in the opinion of the board are just and reasonable. In determining the justness and reasonableness of such wages and salaries or working conditions the board shall, so far as applicable, take into consideration among other relevant circumstances:

(1) The scales of wages paid for similar kinds of work

in other industries;

- (2) The relation between wages and the cost of living;
- (3) The hazards of the employment;
- (4) The training and skill required;
- (5) The degree of responsibility;
- (6) The character and regularity of the employment; and
- (7) Inequalities of increases in wages or of treatment, the result of previous wage orders or adjustments.

SEC. 308. The Labor Board—

(1) Shall elect a chairman by majority vote of its members;

(2) Shall maintain central offices in Chicago, Illinois, but the Labor Board may, whenever it deems it necessary, meet at such other place as it may determine;

(3) Shall investigate and study the relations between carriers and their employees, particularly questions relating to wages, hours of labor, and other conditions of employment and the respective privileges, rights, and duties of carriers and employees, and shall gather, compile, classify, digest, and publish, from time to time, data and information relating to such questions to the end that the Labor Board may be properly equipped to perform its duties under this title, and that the members of the Adjustment Boards and the public may be properly informed;

(4) May make regulations necessary for the efficient execution of the functions vested in it by this title; and

(5) Shall at least annually collect and publish the decisions and regulations of the Labor Board and the Adjustment Boards and all court and administrative decisions and regulations of the Commission in respect to this title, together with a cumulative index-digest thereof.

SEC. 309. Any party to any dispute to be considered by an Adjustment Board or by the Labor Board shall be entitled to a hearing either in person or by counsel.

SEC. 310. (a) For the efficient administration of the functions vested in the Labor Board by this title, any member thereof may require, by subpoena issued and signed by himself, the attendance of any witness and the production of any book, paper, document, or other evidence from any place in the United States at any designated place of hear-

ing, and the taking of a deposition before any designated person having power to administer oaths. In the case of a deposition the testimony shall be reduced to writing by the person taking the deposition or under his direction, and shall then be subscribed to by the deponent. Any member of the Labor Board may administer oaths and examine any witness. Any witness summoned before the board and any witness whose deposition is taken shall be paid the same fees and mileage as are paid witnesses in the courts of the United States.

(b) In case of failure to comply with any subpoena or in case of the contumacy of any witness appearing before the Labor Board, the board may invoke the aid of any United States district court. Such court may thereupon order the witness to comply with the requirements of such subpoena, or to give evidence touching the matter in question, as the case may be. Any failure to obey such order may be punished by such court as a contempt thereof.

(c) No person shall be excused from so attending and testifying or deposing, nor from so producing any book, paper, document, or other evidence on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing, as to which in obedience to a subpoena and under oath, he may so testify or produce evidence, documentary or otherwise. But no person shall be exempt from prosecution and punishment for perjury committed in so testifying.

SEC. 311. (a) When necessary to the efficient administration of the functions vested in the Labor Board by this title, any member, officer, employee, or agent thereof, duly authorized in writing by the board, shall at all reasonable times for the purpose of examination, have access to and the right to copy any book, account, record, paper, or correspondence relating to any matter which the board is authorized to consider or investigate. Any person who upon demand refuses any duly authorized member, officer, employee, or agent of the Labor Board such right of access

or copying, or hinders, obstructs, or resists him in the exercise of such right, shall upon conviction thereof be liable to a penalty of \$500 for each such offense. Each day during any part of which such offense continues shall constitute a separate offense. Such penalty shall be recoverable in a civil suit brought in the name of the United States, and shall be covered into the Treasury of the United States as miscellaneous receipts.

(b) Every officer or employee of the United States, whenever requested by any member of the Labor Board or an Adjustment Board duly authorized by the board for the purpose, shall supply to such board any data or information pertaining to the administration of the functions vested in it by this title, which may be contained in the records of his office.

(c) The President is authorized to transfer to the Labor Board any books, papers, or documents pertaining to the administration of the functions vested in the board by this title, which are in the possession of any agency, or railway board of adjustment in connection therewith, established for executing the powers granted the President under the Federal Control Act and which are no longer necessary to the administration of the affairs of such agency.

SEC. 312. Prior to September 1, 1920, each carrier shall pay to each employee or subordinate official thereof wages or salary at a rate not less than that fixed by the decision of any agency, or railway board of adjustment in connection therewith, established for executing the powers granted the President under the Federal Control Act, in effect in respect to such employee or subordinate official immediately preceding 12:01 a. m. March 1, 1920. Any carrier acting in violation of any provision of this section shall upon conviction thereof be liable to a penalty of \$100 for each such offense. Each such action with respect to any such employee or subordinate official and each day or portion thereof during which the offense continues shall constitute a separate offense. Such penalty shall be recoverable in a civil suit brought in the name of the United States, and shall be covered into the Treasury of the United States as miscellaneous receipts.

SEC. 313. The Labor Board, in case it has reason to believe that any decision of the Labor Board or of an Adjustment Board is violated by any carrier, or employee, or subordinate official, or organization thereof, may upon its own motion after due notice and hearing to all persons directly interested in such violation, determine whether in its opinion such violation has occurred and make public its decision in such manner as it may determine.

SEC. 314. The Labor Board may (1) appoint a secretary, who shall receive from the United States an annual salary of \$5,000; and (2) subject to the provisions of the civil service laws, appoint and remove such officers, employees, and agents; and make such expenditures for rent, printing, telegrams, telephone, law books, books of reference, periodicals, furniture, stationery, office equipment, and other supplies and expenses, including salaries, traveling expenses of its members, secretary, officers, employees, and agents, and witness fees, as are necessary for the efficient execution of the functions vested in the board by this title and as may be provided for by Congress from time to time. All of the expenditures of the Labor Board shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the chairman of the Labor Board.

SEC. 315. There is hereby appropriated for the fiscal year ending June 30, 1920, out of any money in the Treasury not otherwise appropriated, the sum of \$50,000, or so much thereof as may be necessary to be expended by the Labor Board, for defraying the expenses of the maintenance and establishment of the board, including the payment of salaries as provided in this title.

SEC. 316. The powers and duties of the Board of Mediation and Conciliation created by the Act approved July 15, 1913, shall not extend to any dispute which may be received for hearing and decision by any Adjustment Board or the Labor Board.

APPENDIX H

THE KENYON RESOLUTION PROVIDING FOR AN INDUSTRIAL CODE AND A NATIONAL LABOR BOARD. INTRODUCED JANUARY 22, 1920, IN THE SENATE OF THE UNITED STATES

Mr. Kenyon submitted the following concurrent resolution;
which was referred to the Committee on Education
and Labor

Concurrent Resolution

Whereas, in the period through which we are now passing of adjustment of war-time conditions of business and industry to normal conditions, there exists no general national agency for the settlement of industrial disputes, or, for the determination of a general labor policy; and

Whereas, no general arrangement has as yet been worked out by representatives of employers and employees as to the fundamental principles which should obtain in the adjustment of industrial relations and conditions, or, the labor standards which should be observed; and

Whereas, the general public has suffered much from this state of affairs and will suffer further loss and inconvenience if the present situation is allowed to continue; and

Whereas, unless some national machinery, based on certain well-defined principles, for the peaceable adjustment of industrial disputes is established, not only the continuity of production can not be maintained but also the acceleration of production to maximum proportions, of which our country and the world are in so grievous need, can not be hoped for; Therefore be it

Resolved by the Senate (the House of Representatives concurring),

That with the desire to assist the President in the present

emergency and to bring industrial peace and prosperity to all our people, the Congress of the United States recommends the following course of action to the President:

First. That he immediately constitute a labor adjustment board, similar in its composition to the former National War Labor Board, to be designated as the National Labor Board, to pass upon industrial disputes, pending the action of a national industrial congress as hereinafter recommended.

Second. That the National Labor Board shall immediately proceed to function under the principles and precedents established by the former National War Labor Board. It shall receive for adjudication either *ex parte* complaints or joint submissions from employers and employees, or it may institute proceedings in any controversy on its own motion or at the direction of the President or of the Congress. It shall establish in the leading industries by conference and agreement joint boards for the adjustment of labor disputes and for such other purposes as it may deem proper for the advancement of industrial peace and the public welfare.

Third. For the purpose of establishing permanent agencies for the adjustment of industrial disputes to supersede the National Labor Board, and for the further purpose of determining a permanent series of principles, or a code to govern future industrial relations and the adjustment of industrial disputes, and for the still further purpose of sanctioning standards of working conditions to obtain in industry, that a National Industrial Congress be called by the President, which shall be democratic and representative, composed of an equal number of voting delegates, of one hundred and fifty each, from employers and employees, divided as follows:

1. Group of employees—

(a) Ten delegates to be designated by the president of the American Federation of Labor.

(b) One delegate each, to be named by the chief executives of the national and international unions affiliated with the American Federation of Labor.

(c) One delegate to be designated by the chief executives of each of the four railway transportation brotherhoods.

(d) One representative to be designated by the chief executives of each of the legitimate local unions not affiliated with the American Federation of Labor recognized by employers.

(e) The remaining number of delegates to make up the total of one hundred and fifty from the labor group to be selected from State and municipal federations of labor and from representatives of the National Women's Trade Union League, apportioned as may seem just and proper by the President's Industrial Conference as hereinafter provided, including ten to be selected from labor not affiliated with federations of labor.

2. Group of employers—

(a) Ten delegates to be designated by the National Industrial Conference Board.

(b) One delegate to be selected by the president of each of the manufacturers' associations which are organized on a national basis, such as the National Erectors' Association, American Cotton Mill Manufacturers' Association, Iron and Steel Institute, National Coal Operators' Association, and so forth.

(c) One delegate each from the representative investment banking houses which have to do particularly with the financing of industrial and transportation corporations, such delegates not to exceed a total of twenty-five.

(d) Five representatives designated by the Investment Bankers' Association.

(e) Thirteen representatives designated by the United States Chamber of Commerce.

(f) Twelve delegates to be designated by the committee of railway executives.

(g) The remaining delegates to make the total of one hundred and fifty for the employers' group to be selected from other organizations of employers as the President's Industrial Conference may deem just and proper as hereinafter provided, including ten to be selected from industries not affiliated with any national association.

3. That the Industrial Conference constituted entirely of representatives of the public, which has been called by the President, and which is now in session, be instructed to act as a committee on organization and program for the National Industrial Congress hereinbefore provided and when the Industrial Congress convenes, the present Industrial Conference, together with representatives of farmers' organizations and representatives of other groups designated by it, not to exceed a total of fifty, shall take part in its deliberations as representing the public.

Fourth. That at the conclusion of the National Industrial Congress, the President shall transmit to the Congress the recommendations of the Industrial Congress as to legislation or other permanent action which it may have deemed advisable, and

Resolved further, That the sum of \$50,000 from the funds in the Treasury not otherwise appropriated is hereby appropriated, to be used under the direction of the President in carrying out the foregoing recommendations.

APPENDIX I

KANSAS COURT OF INDUSTRIAL RELATIONS Digest of the Law of 1920

CREATION OF THE COURT

SECTION 1. A tribunal is established, called the Court of Industrial Relations. It consists of three judges, appointed by the governor and approved by the senate. The judges serve for three years; those first named to be designated for terms of one, two and three years respectively, the last presiding. Thereafter, the judge who has served longest shall preside. The salary of judge is \$5000.

ABOLISHMENT OF THE PUBLIC UTILITIES COMMISSION

2. The Public Utilities Commission of the state is abolished, and its powers transferred to the Court of Industrial Relations.

SCOPE OF THE COURT

3. (a) Certain industries and public utilities are declared to be affected with a public interest and therefore to be subject to state supervision, for preserving public peace, protecting public health, preventing industrial strife and waste, and securing the orderly conduct of business directly affecting living conditions of the people:

1. The manufacture or preparation of food products whereby in any stage of the process, substances are being converted, partially or wholly, from their natural state to a condition to be used as food by human beings.

2. The manufacture of clothing in common use by the people of the state, whereby in any state of the process natural products are being converted, partially or wholly, from their natural state to a condition to be used as clothing.

3. The mining or production of any substance in com-

mon use as fuel for domestic, manufacturing or transportation purposes.

4. The transportation of food products and articles entering into clothing, or fuel, from the place of production to that of manufacture or consumption.

5. All public utilities as defined by section 8329, and common carriers as defined in section 8330 of the General Statutes of Kansas, 1915.

(b) Any person or firm engaged in these essential industries or utilities in any capacity is subject to the Act.

POWERS OF THE COURT

4. The Court, besides the power transferred to it from the Public Utilities Commission, shall have full power to supervise and control these industries and utilities in accordance with the Act. It shall have its office at the capital. It must keep public records of its proceedings.

5. The Court may adopt its rules for procedure. The rules of evidence recognized by the supreme court of Kansas in original proceedings shall be observed for taking testimony.

6. It is declared necessary for the welfare of the State that the specified industries operate with reasonable continuity and efficiency. No person, firm, corporation or association of persons shall wilfully hinder such operation.

INITIATION OF ACTION BEFORE THE COURT

7. If a dispute between employers and workers, or between groups of workers, in these industries seems to the Court likely to interfere with orderly operation, the Court can take up the case on its own initiative. It may give temporary orders to protect the peace and the status of the parties, summon witnesses, examine records, take evidence, investigate conditions surrounding the workers, consider the wages paid labor and the return to capital, the rights of the public and any other question affecting the conduct of the industry, and settle the controversy by findings.

Action may also be started by a complaint from either party to the dispute, by ten citizen taxpayers of the com-

munity, or by the attorney general of the State. If the complaint makes clear to the Court that the parties can not agree and the essential industries are threatened, the Court shall investigate and settle the case.

PRINCIPLES FOR COURT ACTION

8. The Court shall order such changes in the conduct of an industry, in working and living conditions, hours, rules and practises, and such reasonable minimum wage or standard of wages as are necessary on its findings. The terms of its orders must be just and reasonable and such as to enable the industry to keep up its operation with reasonable efficiency. Such terms shall hold for as long as the Court fixes, or until changed by agreement between the parties, with the Court's approval.

9. It is necessary for the general welfare that workers in these industries shall receive a fair wage at all times and have healthful and moral surroundings at work; and that capital invested therein shall receive a fair rate of return.

Every person has the right to choose his own employment, and to make and carry out fair contracts of employment. If the Court finds the terms of any such agreement unfair, in the course of action before it, it may modify them.

10. The Court shall notify interested parties of an investigation by registered mail, or by publication in a newspaper of general circulation in the county where the industry or the chief office of the utility is located.

ENFORCEMENT AND APPEAL

11. The Court may issue summons, compel the attendance of witnesses and the production of accounts. If a person refuses to obey a summons, the Court can compel him through proceedings in any court of competent jurisdiction.

12. If anyone refuses to obey an order of the Court, the Court may bring proceedings in the state supreme court to compel obedience.

If either party to the dispute believes an order unjust, it may within ten days appeal to the supreme court to compel the Court of Industrial Relations to make a just order. The supreme court may admit additional evidence, and must give the appeal precedence over other civil cases.

13. Action in law to set aside an order of the Court must be begun within thirty days after the service of the order.

RIGHT OF COLLECTIVE BARGAINING

14. A union or association of workers which shall incorporate under the state laws shall be recognized by the Court as a legal entity and may appear before it through its officers, attorneys or other representatives. The right of such organizations to bargain collectively is recognized.

Unincorporated unions have the same right, provided that individual members of such unions appoint in writing some officer of the union, or other person, as agent, with authority to enter into bargains and to represent each individual in so doing.

All collective bargains and agreements may be modified by the Court.

DISCRIMINATION AND BOYCOTT

15. No employee may be discriminated against for his part in bringing a controversy before the Court.

It is unlawful for two or more persons to conspire to injure any other person or any corporation in its business, labor enterprise, or peace and security, by boycott, discrimination, picketing, advertising, propaganda or other means, because of any action taken by order of the Court, or instituted in the Court.

MAINTENANCE OF PRODUCTION

16. The essential industries and utilities must not limit or stop production or transportation to affect prices or to avoid the provisions of the Act. A person, firm or corporation, however, may apply to the Court for authority to limit or stop operation, with reasons, and the Court shall pass on the application promptly.

The Court may make rules to further the efficient operation of industries affected by change of seasons, market conditions and other circumstances inherent in the nature of the business.

VIOLATIONS OF THE ACT

17. It is unlawful to do any act forbidden, or to fail to do any act enjoined by the provisions of the Act, or to conspire with others, or induce or intimidate them to do so. But there shall be no restriction of the right of the individual employee to leave his work at any time. He may not, however, conspire with others to quit work, or induce them to quit. No one may engage "in what is known as picketing," or intimidate by threats, or in any way induce, persons to stop work or not to take work in these industries.

18. Wilful violation of the Act, or of an order of the Court, is a misdemeanor, punishable in any court of competent jurisdiction by a fine of not more than \$1000, or one year's imprisonment in the county jail, or both.

19. An officer of a corporation or of a labor-union, or any employer within the scope of the Act who uses his official position to influence or force anyone to violate the Act or an order of the Court, is guilty of a felony. The penalty upon conviction is a fine of not more than \$5000, or imprisonment in the state penitentiary for two years at hard labor, or both.

POWER OF THE COURT TO TAKE OVER INDUSTRY

20. If an industry or utility in the scope of the Act is suspended contrary to the Act or a Court Order, the Court may take it over and operate it during the emergency. A fair return shall be paid the owners, and fair wages to the workers during this time. Control can be taken through proceedings in any competent court.

VOLUNTARY ARBITRATION

21. In other industries than those specified, the parties to a dispute over wage, hours, working or living conditions, may submit their case to the Court if they agree to do so

in writing. Findings of the Court in such cases have the same force as those made for the essential industries.

USE OF EXPERTS

22. When necessary the Court may appoint as commissioners experts in some subject involved in an inquiry to take evidence in regard to that subject. Such commissioners have the same power as the Court to take evidence.

RETROACTIVE WAGE DECISIONS

23. Any order of the Court for a minimum wage or a standard of wages shall be deemed *prima facie* just. If the Court orders wage increases, workers affected are entitled to the increase from the date the notice was served for the investigation. Individually or collectively they may collect it in any competent court.

If the Court decreases wages, the employer has the right to collect the difference for the same period in the same manner.

RESEARCH

24. The Court, with the governor's consent, may make investigations within the State or elsewhere into industrial conditions to help solve the problems that may come up under the Act.

OTHER PROVISIONS

25. The Act is cumulative of all other State laws relating to the same matters. It repeals other acts only where they are inconsistent with this.

26. The Act and the powers granted to the Court shall be construed liberally. All incidental powers are granted the Court to carry its provisions into effect.

27. Expenses of the Court shall be met from funds appropriated by legislature. Warrants shall be approved by the governor.

28. The Act as a whole shall not be declared invalid because one or more sections of it is held to be so in any court.

29. Acts and parts of acts in conflict with this Act are repealed.

30. The Act takes effect from its publication in the official state paper.

Topeka, Kansas, 1920.

APPENDIX J

PERSONNEL AND GROUPS OF FIRST INDUSTRIAL CONFERENCE CALLED BY PRESIDENT WILSON, OCTOBER, 1919

1. *Public Group*.—Bernard M. Baruch, member of New York Stock Exchange; Robert S. Brookings, merchant, St. Louis, Mo.; John D. Rockefeller, Jr., capitalist, New York City; Elbert H. Gary, chairman and chief executive officer, United States Steel Corporation, New York City; Dr. Charles W. Eliot, president-emeritus, Harvard University, Cambridge, Mass.; John Spargo, author, New York City; O. E. Bradfute, Xenia, Ohio; Ward M. Burgess, Omaha, Nebraska; Fuller E. Calloway, textile manufacturer, La Grange, Ga.; Thomas L. Chadbourne, New York City; Henry S. Dennison, paper manufacturer, Framingham, Mass.; H. B. Endicott, shoe manufacturer, Dedham, Mass.; Paul L. Feiss, garment manufacturer, Cleveland, Ohio; George R. James, with W. R. Moore Dry Goods Co., Memphis, Tenn.; Thomas D. Jones, retired attorney and business man, Chicago, Ill.; A. A. Landon, American Radiator Co., Buffalo, N. Y.; E. T. Meredith, editor, *Successful Farming*, Des Moines, Iowa; Gavin McNab, attorney, San Francisco, Calif.; L. D. Sweet, Carbondale, Colo.; Louis Titus, San Francisco, Calif.; Chas. Edward Russell, journalist, author, New York City; Bert M. Jewell (replaced subsequently by James W. Forrester, International Federation of Railway Clerks), American Federation of Labor, Washington, D. C.; Lillian D. Wald, sociologist and settlement worker, New York City; Gertrude Barnum, ex-assistant director of the Investigation and Inspection Service, United States Department of Labor, Berkeley, Calif.; Ida M. Tarbell, author and publicist, New York City.

2. *Employers' Group*.—Harry A. Wheeler, Chicago, Ill.; Ernest T. Trigg, Philadelphia, Pa.; Herbert F. Perkins, Chicago, Ill., representing the United States Chamber of

Commerce; J. N. Tittlemore, Omro, Wis.; T. C. Atkeson, Washington, D. C.; C. S. Barrett, Union City, Ga., representing farmers' organizations; Edgar L. Marston, New York City, and Howard W. Fenton, Chicago, Ill., representing the Investment Bankers' Association of America; Frederick P. Fish, Boston, Mass.; J. W. O'Leary, Chicago, Ill.; S. Pemberton Hutchinson, Philadelphia, Pa.; Edwin Farnham Green, Boston, Mass.; Leonor Fresnel Loree, New York City, representing the National Industrial Conference Board; and R. H. Aishton, Chicago, Ill., with Carl R. Gray, Baltimore, Md., representing railroad managements.

3. *Labor Group*.—Samuel Gompers, president, American Federation of Labor, Washington, D. C.; Frank Morrison, secretary, American Federation of Labor, Washington, D. C.; Daniel J. Tobin, Indianapolis, Ind.; Joseph F. Valentine, molders, Cincinnati, Ohio; Frank Duffy, carpenters, Indianapolis, Ind.; W. D. Mahon, street and electric railway employees, Detroit, Mich.; T. A. Rickert, clothing workers, Chicago, Ill.; Jacob Fischer, Indianapolis, Ind.; Matthew Woll, photo-engravers, Washington, D. C.; John L. Lewis, Indianapolis, Ind.; Mrs. Sara Conboy, textile workers, New York; William H. Johnston, machinists, Washington, D. C.; Paul Scharrenborg, seaman, San Francisco, Calif.; John H. Donlin, Washington, D. C.; M. F. Tighe, steel workers, Pittsburgh, Pa.; H. E. Wills, railroad engineers, Washington, D. C.; P. J. McNamara, railroad firemen, Buffalo, N. Y.; W. G. Lee, railroad trainmen, Cleveland, Ohio; L. E. Sheppard, railroad conductors, Cedar Rapids, Iowa.

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APPENDIX K

COMPULSORY INDUSTRIAL DISPUTES INVESTIGATION ACT OF COLORADO

The Legislature of Colorado at its session this year enacted a law embodying provisions relative to labor disputes that differs from any other existing legislation in this country, resembling in several respects the well-known Canadian Industrial Disputes Act.

The act in question is chapter 180, Acts of 1915, creating an industrial commission with a wide range of powers. Among the duties of the commission is that of doing all in its power to promote the voluntary adjustment of labor disputes, with a view to avoid "the necessity of resorting to strikes, lockouts, boycotts, blacklists, discriminations and legal proceedings in matters of employment." The commission may act directly, or it may appoint temporary boards of arbitration, providing also for their necessary expenses. Hearings and investigations may be conducted by the commission or a board, deputy, agent or committee, and findings, orders, awards, or decisions when approved and confirmed by the commission, are to be deemed the conclusions of the commission. Power to enforce the attendance of witnesses, administer oaths, require the production of books, papers, etc., is conferred on the commission, or a board appointed by it, to the same extent as such power is vested in a court of record in civil cases. Parties to proceedings may be compelled to give evidence as witnesses, and evidence is not restricted to that of a strictly legal nature, but such as seems fit in equity and good conscience may be accepted.

Employers and employees must give at least thirty days' notice of any intended change affecting conditions of employment as regards wages or hours. If an investigation has been begun, and until the dispute has been finally dealt with by the commission or board, the existing status must

be maintained, and the relationship of employer and employee continued "uninterrupted by the dispute or anything arising out of the dispute." Any attempt at delay in order to maintain a continuation of the status is punishable as a misdemeanor. It is also made unlawful for any employer to declare or cause a lockout, or for any employee to go on strike, on account of any dispute, prior to or during an investigation, hearing or arbitration of such dispute under the provisions of the act. Suspension or discontinuance of any industry not affected with a public interest come within the prohibition of the act. Employers may declare lockouts and employees may strike without violating the statute if they choose to do so after a dispute has been duly investigated, heard, or arbitrated under the provisions of the act.

Determinations by the commission or a board are binding only when the parties to a dispute have either agreed in writing prior to action that they will abide by the conclusions reached, or have accepted the action of the commission or board after the same has been made known to them. Penalties are provided for violations of the act by employers or by employees, as well as by any person who incites, encourages or aids in any manner acts by either employers or employees, in contravention of the provisions of the statute.

Awards and findings in regard to labor disputes are within the general provisions of the act as to rehearings on points objected to, and appeals to courts. Such appeals lie to procure the modification or vacation of any order or ruling made, on the ground that it is unlawful or unreasonable, and such actions take precedence in time over all civil cases of a different nature. The only grounds upon which the court can act are that the commission acted without or in excess of its powers; that the findings, order, or award was procured by fraud; that the findings of fact by the commission do not support the order or award; or that the award does not do substantial justice to the parties. If further objection is made, the matter may be brought before the Supreme Court on a writ of error for a final review of the order or judgment.

The effect of the act is, in brief, to furnish a compulsory system of investigation, requiring the continuance of the status pending such action, whether applied for or not, no act in furtherance of a dispute being permissible by either party until the matter has been gone into by an official body.

APPENDIX L

JOINT INDUSTRIAL COUNCILS IN GREAT BRITAIN:

THE WHITLEY SCHEME

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(From pamphlet entitled "Industrial Councils: The Whitley Scheme," published by the Ministry of Reconstruction of Great Britain, as No. 18 of a series of pamphlets on Reconstruction Problems.)

At the outbreak of war organization on the part of employers and of workpeople existed in varying degrees in the different industries of the country. In such industries as coal mining and cotton, both employers and workpeople were highly organized. In other industries the employers' associations and the trade-unions were less powerful; and in some trades, if they existed at all, they exercised relatively little influence. In a number of the better organized trades, the employers' associations and trade-unions concerned, established conciliation or arbitration boards. This joint machinery was called into existence in order to provide a medium for the discussion and settlement of industrial disputes; but the work of these bodies was carried on often in an atmosphere of disagreement, because in practise, the chief work of the Boards was the settlement of industrial disputes which had reached an acute stage or at least might reasonably be expected to result in a stoppage of work. Altho the Boards were formed for the purpose of providing an adequate machinery for negotiating the settlement of industrial difficulties, in some cases at least they became the normal means whereby other questions affecting both employers and employed were discussed.

During the war steps have been taken in the direction of extending the number of questions on which general consultation is desirable, and the proposals of the committee presided over by Mr. J. H. Whitley, M. P., the Deputy Speaker, were made with a view to establishing joint bodies

for purposes of consultation and decision on matters of common interest.

This committee, officially known as the Committee on Relations between Employers and Employed, was set up by the Cabinet Committee on Reconstruction:

- (1) To make and consider suggestions for securing a permanent improvement in the relations between employers and workmen.
- (2) To recommend means for securing that industrial conditions affecting the relations between employers and workmen shall be systematically reviewed by those concerned, with a view to improving conditions in the future.

The committee came to the unanimous conclusion that the relations of employers and employed could be improved only by the establishment of organizations for free discussion between the two parties in industry. It was necessary to create an atmosphere in which men with opposing views and opposing interests might find it possible to meet. Controversial issues would then be seen in their proper proportion, and the various, perhaps less important, points on which there could be agreement might be considered. For such reasons as these the committee suggested the formation in each industry of a National Joint Industrial Council. Each Council was to consist of representatives of Employers' Associations and representatives of Trade-Unions. It was, therefore, intended that not individuals but organizations should be represented on the Industrial Councils, and it was clearly perceived that on such councils there would be two sides. It was never intended that the Trade-Unions should be weakened by the admission of representatives of non-unionists; and it was not supposed that the two sides in a council would fly apart into individuals or groups which would obscure the difference between the employers and the employed.

On the other hand the proposals of the Whitley Committee make a very great advance on all prewar joint organizations. The Industrial Council obviously creates an atmosphere in which the interests of all concerned in an industry might be considered without regard to possible

disputes. A good Council would initiate and promote development in the industry. It would be a training ground for managerial ability among the workers' representatives, and an occasion for the employers to come into closer contact with their workpeople.

The complete plan of organization proposed by the committee is applicable only to those industries in which there is effective organization amongst both employers and employed. Whilst under ideal conditions it might be urged that the fabric should be built up from the individual workshop, the need for some immediately practicable scheme, and the existence of national trade-unions and employers' associations, rendered it inevitable that in general a beginning should be made by the establishment of an industrial council covering the whole industry.

Nevertheless, it is important that the discussion of the problems of an industry should be brought within the range of all those engaged in the industry. There are, moreover, a number of problems which are local rather than national in character, and in any case it is clear that national agreements need to be interpreted to meet the circumstances prevailing in the different areas where an industry is carried on. The committee, therefore, suggested that in addition to the National Council for an industry, there should be District Councils established on the same general plan.

With a view to the speedy settlement of minor difficulties, which, if not dissipated, may give rise to industrial trouble on a large scale, it was necessary to promote organization within the individual workshop, mine, or factory. The committee, therefore, also suggested that the organization of an industry would not be complete unless there existed in individual firms machinery for consultation and discussion between the management and the workpeople.

It is not possible to determine in the abstract the distribution of functions between a national industrial council, the district councils, and the works committees; nor is it possible to lay down exactly what the functions of the triple organization should cover. They may be as wide or as narrow as the organizations concerned choose to make them.

Amongst the functions agreed upon by Joint Industrial Councils which have already come into existence are the following:

1. To secure the largest possible measure of joint action between employers and workpeople for the development of the industry as a part of national life and for the improvement of the conditions of all engaged in that industry.

2. Regular consideration of wages, hours and working conditions in the industry as a whole.

3. The consideration of measures for regularizing production and employment.

4. The consideration of the existing machinery for the settlement of differences between different parties and sections in the industry, and the establishment of machinery for this purpose where it does not already exist, with the object of securing the speedy settlement of difficulties.

5. The consideration of measures for securing the inclusion of all employers and workpeople in their respective associations.

6. The collection of statistics and information on matters appertaining to the industry.

7. The encouragement of the study of processes and design and of research, with a view to perfecting the products of the industry.

8. The provision of facilities for the full consideration and utilization of inventions and any improvement in machinery or method, and for the adequate safeguarding of the rights of the designers of such improvements, and to secure that such improvement in method or invention shall give to each party an equitable share of the benefits financially or otherwise arising therefrom.

9. Inquiries into special problems of the industry, including the comparative study of the organization and methods of the industry in this and other countries, and, where desirable, the publication of reports. The arrangement of lectures and the holding of conferences on subjects of general interest to the industry.

10. The improvement of the health conditions obtaining in the industry, and the provision of special treatment where necessary for workers in the industry.

11. The supervision of entry into, and training for, the industry, and cooperation with the educational authorities in arranging education in all its branches for the industry.

12. The issue to the Press of authoritative statements upon matters affecting the industry and of general interest to the community.

13. Representation of the needs and opinions of the industry to the government, government departments and other authorities.

14. The consideration of any other matters that may be referred to it by the government or any government department.

15. The consideration of the proposals for District Councils and Works Committees put forward in the Whitley Report, having regard in each case to any such organizations as may already be in existence.

16. Cooperation with the Joint Industrial Councils for other industries to deal with problems of common interest.

The national Councils so far established have been the result of Conferences between representatives of the two sides and Joint Committees have drawn up constitutions for the proposed Councils. These constitutions in the different industries vary in details, but they all follow the same general principles.

There is no uniform method for the formation of Joint Industrial Councils, and in future the larger industries, in which there is now no such Council, may evolve some organization on the same lines, but by some new method. Naturally, there can be no rules for the formation of what is a purely voluntary body. It may be presumed, however, from the experience of the past two years that councils are formed by the following method: Representative men either on the employers' or on the workers' side or on both sides agree that the organization of their industry needs development. Any person or group of persons can, of course, apply to the Ministry of Labor for suggestions as to joint bodies in industry, and a conference of representatives of associations and trade-unions in the industry is then called. Such a conference generally appoints a small subcommittee, which drafts a constitution for the

National Joint Industrial Council. The representatives of the industry themselves have to decide who shall be regarded as forming part of the industry and what organizations shall be represented. When the constitution has been approved by a meeting representative of the whole industry, the Ministry of Labor is generally approached in order that the Government may give "recognition" to the Council. Recognition indicates chiefly that all Government departments will communicate with the industry through the Joint Industrial Council, and it is also an indication that the Ministry of Labor regards the Council as sufficiently representative of all the chief interests in the industry. It follows that no recognition could be given unless the industry were sufficiently organized for the vast majority of employers and employed to be included in associations or trade-unions.

CONSTITUTION AND FUNCTIONS

The Council is formed by equal numbers of representatives of Employers' Associations and of Trade-Unions, elected for an agreed period, generally a year. The Council appoints committees for special purposes and persons with special knowledge may be coopted as members of these committees. If there is a Chairman of the Council who is an employer, the Vice-Chairman is naturally a trade-unionist; but some Councils have preferred to elect an independent Chairman, and the other officers of the Council, Treasurer, Secretary, etc., are arranged for in the usual manner. Voting is generally so regulated that no resolution can be regarded as carried unless it has been approved by a majority of the members present on each side of the Council.

We may now turn to the work which a Council does. The general intention in setting up a Council for any industry will be already evident from what has been said above, and the joint conferences of employers and workers who have formed Industrial Councils have generally defined the work of their Council as follows: The Council should have under consideration the wages, hours and working conditions in the industry. It should also take measures

to promote the regularizing of employment and production, for by such measures the period of slackness in trade and of unemployment or under employment may be avoided. Thus, an industrial Council should consider unemployment and would naturally be active not only in the maintenance of its workers during unemployment, but also in the prevention of the unemployment of large numbers. It is now known that by organizations of an industry unemployment in time of slack trade can be very much kept down. The Council would promote organization also by taking measures to secure that all employers in the industry belonged to an employers' association and all workers to a trade-union.

In any industry in which machinery for the settlement of disputes does not already exist an Industrial Council would establish such machinery. The Council would promote industrial research, secure the use of new inventions and see that full advantage from any such developments should be shared by all who are dependent on the industry for their living.

In all contact with the Government, the Industrial Council would naturally stand for the whole industry and it would present the views of the industry to the Government.

Other functions are given to some Industrial Councils by their founders, such as the promotion of education, the collection of statistics of wages, and average percentages of profits on turn-over, but these functions are not given to all Councils.

This description of functions is based upon actual constitutions of Councils which have been already established. The work already done by Councils is included under some of the subjects enumerated; for example, the Industrial Councils for Electrical Contracting, Match Manufacture and the Silk Industry have actually agreed to a forty-seven-hour week.

District Councils

So far, we have spoken of a National Council representing the whole of an industry, but to be complete the organization of an industry must be local as well as national.

The circumstances may vary much from district to district, and therefore it is suggested that in appropriate cases, District Councils should set up under the National Joint Industrial Council.

The area for a District Council would naturally be defined by the National Council, and the membership would be on the same plan in both. The purposes for which a District Council exists are, for example, to take executive action in carrying out in the district any decisions of the National Council. Hours, wages and working conditions, working rules, overtime, juvenile labor and the shift system, are all subjects on which a District Council may be more closely in contact than a National Council. The District Council should also be able to coordinate the local workshop practises.

Works Committee

The final element in the completed structure of joint consultation in industry is to be found in the works themselves. The chief purpose in view is that the workers should be given a wider interest in and a greater responsibility for the conditions under which their work is carried on. A Works Committee will, therefore, minimize friction and misunderstanding, and it will see that the collective agreements reached on District or National Councils are enforced in the works. The workers' side of a Works Committee should be all members of trade-unions, and they should represent the different departments within the works as well as the different sections of workers concerned. Representatives should be elected for a definite term of six or twelve months, and the workers' side should have its own Chairman or Secretary. It is thought that from five to twelve members should be elected in accordance with the size or complexity of the works. On the side representing the management there need not be so many members, but they should include the managing director or works manager.

The Works Committee usually meets at regular intervals of two or four weeks, and the meetings are held during working hours. Any grievance may be reported by any

workers to their representative on the Committee, and if their representative cannot himself reach a settlement in the matter, it may be referred to the Committee itself.

The functions usually given by agreement to Works Committees are the issue and revision of work rules, the arrangement of working hours, breaks, etc., the form in which wages are paid, the settlement of grievances, questions of "welfare" such as the provision of meals, drinking water, etc., questions of timekeeping, of bullying, etc., the training of apprentices, entertainments and sports. Thus, the workers will take the responsibility for the organization of their working life and they will not feel the place in which they work to be so much foreign ground.

It is well known that Works Committees existed long before the war, and, therefore, they are not in any way the result of suggestions of the Whitley Committee. A full account of their history and recent development is given in a pamphlet on Works Committees, published by the Ministry of Labor. The Whitley Committee, however, supported the promotion of such organization in contact with the actual working conditions in industry, and clearly the scheme for Joint Industrial Councils could not be effective unless the actual workers in the shops or factory were given some power of presenting their views in regard to working conditions.

Councils Already Formed

When the Government accepted the policy suggested by the Whitley Committee, the Ministry of Labor was entrusted with the promotion of Joint Industrial Councils, and up to the present date twenty-six such Councils have been formed. There are now Joint Industrial Councils for the following industries: Baking, Bedstead Making, Bobbins, Chemicals, China Clay, Furniture, Gold, Silver and Allied Trades, Hosiery, Made-up Leather Goods, Matches, Paint and Varnish, Pottery, Rubber, Sawmilling, Silk, Tin-plate, Vehicle Building.

In addition to this Joint Committees are at present engaged in drafting constitutions in the following fourteen industries: Boot and Shoe Manufacture, Needles and Fish-

hooks, Newspapers, Shipping, Carpets, Coir Matting, Commercial Road Transport, Electricity Supply, Flour Milling, Non-trading Municipalities, Printing, Roller Engraving, Tramways, Surgical Instruments.

Some one and a half million workpeople are employed in the industries in which Joint Industrial Councils are already set up. If to that there is added the number of people employed in the industries for which Joint Committees are now drafting constitutions, or where constitutions have already been approved tho the first meeting of the Councils has not been held, we get a total of some two and a half millions. It may also be noted that preliminary negotiations have already taken place in a considerable number of other industries, and tho in these cases the proceedings have not yet reached the stage at which a draft constitution is being considered, there is no doubt that in a considerable number of them Councils will be established in the near future.

To the list already given there has to be added the Industrial Establishment of the Government. In this case negotiations are already far advanced, the Drafting Committee, composed of representatives of the trade-unions and the Government departments, being engaged upon the details of a constitution. It is also to be noted that an Inter-department Committee has been considering the application of the Whitley Report to the administrative and clerical grades of the Civil Service, and that in the near future the same methods of joint negotiations will be applied to them also.

It will be seen that six of the largest trades of the country are not included in the lists given above, viz.: Ship-building, Cotton, Coal-mining, Iron and Steel, Engineering, and Railways. In each of these cases special difficulties exist, and it has been found, not unnaturally, that the larger the industry the greater the difficulties that have to be overcome, owing to the complexity of its existing organization and the difficulty of reconciling the views of the various bodies concerned, where they have not previously been accustomed to working together. It is, therefore, to be expected that the largest industries will be the last to adapt

themselves to the new scheme, and it has also to be remembered that these are the industries which are already the best organized, and therefore have the least need of the new machinery. On the other hand, none of them has at present any joint body with functions as wide or a constitution so definite as those of the Joint Industrial Councils which have been formed. In the Cotton Trade, however, the Cotton Control Board, a Joint Committee of employers and workpeople, carried out the most difficult task of regulating the industry in the face of the great difficulties which have beset it during the war. The Cotton Control Board, though set up for a particular purpose, did in fact perform most of the functions of a Joint Industrial Council. Since the board ceased to be a statutory body, its membership has been extended. The question of the formation of a Joint Industrial Council for the industry is now being placed before the board. The shipbuilding industry also set up a National Joint Committee to deal with the various problems arising out of the war in the industry. Under its auspices district and yard committees were formed in certain areas. In the case of coal-mining a start was made by the formation of Joint District Committees and Joint Pit Committees in the Lancashire area.

Each Drafting Committee was free to select whatever form of constitution and whatever objects seemed best to it, but in order to assist them in their work, the Ministry prepared a model constitution based on the suggestions made in the Whitley Report itself, which has usually served as a basis for discussion. Altho the constitutions which have been drafted naturally vary considerably, the keynote of all of them is the advancement of the industry and the improvement of the conditions of all engaged in it by means of joint action between employers and workpeople, and by their association in its government. The objects which appear in the various constitutions, taken together, include practically every kind of question connected with industry.

It will be seen that the Councils intend to undertake a thorough revision of the conditions under which the industry has hitherto been carried on and to attempt a readjustment of them in such a way as to promote greater pros-

perity for all concerned and a real intimacy of cooperation between employers and workpeople in its government. Some instances of the work actually accomplished by Joint Industrial Councils will serve to indicate that these aspirations are not meant to remain as merely pious hopes, but that steps are already being taken to translate them into practise.

Work Done by Councils

The Baking Industrial Council has set up several district councils; it has made a working agreement giving improved conditions and a considerable advance in wages to the operatives in the trade. The Industrial Council for Building has appointed a committee to report on Scientific Management and Reduction of Costs, and has made reports on Interrupted Apprenticeships. At the request of the Home Office, the Council has appointed a committee to deal with the prevention of accidents.

The Industrial Council for Chemicals has made arrangements for dealing with disputes, including a panel of arbitrators who act in rotation. The China Clay Council has arrived at a wages agreement. The Council for Electrical Contracting has fixed a forty-seven-hour working week, with pay on the basis of a fifty-three-hour week. It has decided to call a meeting of non-unionists employed by associated firms to induce them to join unions. The Furniture Industrial Council has proposed a scheme for a Conciliation Board, which has received the approval of the constituent associations on the Council. It has successfully mediated in local districts, settled rates for upholsterers in the London area, and agreed on ten District Councils, of which one has been already set up.

The Hosiery Council has increased the bonus for operatives, and the Scottish Section has reached an agreement on hours. The Council for Matches has arranged a forty-seven-hour week without reduction in wages; it has set up a London District Committee and Works Committees in every firm but one. The Pottery Council has circulated a memorandum to the trade on health conditions. The Rubber Council has agreed on a forty-seven-hour week, payment to be made on the basis of a fifty-four-hour week or what-

ever the working hours were in the district. The Council for Saw Milling has agreed on a forty-seven-hour week, and the Council for Silk has agreed on a forty-nine-hour week, with no reduction of time or piece rates. The Council for Vehicle Building has agreed on a national minimum wage of 1s. 6d. an hour for skilled men, with corresponding rates for semiskilled men and laborers; it has also agreed on a forty-seven-hour week without reduction in wages except in the case of firms working more than fifty-four hours a week.

Many other problems are under discussion, which will probably result in action being taken; and, obviously, the record of work done must be considered with due regard to the fact that the Councils have only recently come into existence, while the circumstances of war-time made it difficult to take action on some issues.

General Principles

It will be understood from what has been already said that an Industrial Council is not formed by the State or government. It is a purely voluntary body and it contains no representatives of the government. The persons concerned in any industry are quite free to choose whether or not they will form an Industrial Council, and no pressure is needed by the government on any industry. The functions of the Ministry of Labor in this regard are confined to making suggestions and giving general assistance to those who desire to form Industrial Councils, and for this purpose the Ministry organizes conferences and issues relevant material. An official of the Ministry of Labor acts in liaison with every Industrial Council which has been formed.

The government is not, of course, uninterested in the formation of these Councils. Industry is becoming every day a more urgent problem, and it is more and more necessary for the government of the day to know the view of those immediately concerned in the several trades in the country. An Industrial Council is, therefore, useful to the government in providing one voice for the industry concerned. Such a Council can present the views of all those

employed in the industry, and it can suggest or promote any further legislation which may be necessary.

On the other hand, if the government desires anything done by an industry, an Industrial Council may be the best instrument through which it may be done. Thus, the re-settlement of workers and the regularization of employment may be referred by the government to Industrial Councils.

The whole scheme is flexible. It is not a rigid program for every industry and it is capable of endless variations to suit particular circumstances. There are many problems which arise when it is desired to establish an Industrial Council; for example, the problem of the extent and boundaries of an industry. There are many trades which seem to belong to more than one industry, and some industries, such as engineering, seem to be too complex to be treated as a single industry. Again, what in the abstract appears to be one industry may have very distinct branches in different parts of the country, and generally the organization of employers' associations and of trade-unions cuts across the boundaries of many industries. All these facts necessitate adjustment and compromise; the conditions and circumstances affecting an industry and especially the state of organization among employers and workers must be fully investigated before any application can be made of the ideas of the Whitley Committee and clearly some industries may not be suitable for Joint Industrial Councils. On the other hand, the idea of joint discussion of non-controversial issues may affect many trades and industries in which no Council is set up.

Further problems arise as to the position of clerical and supervisory staffs, the rights of a District Council in regard to the functions of the National Council, the treatment of employers who are not members of any association, the interests of non-unionists in the workshops, and many other such points. But all these problems can be solved by due consideration of particular circumstances; and indeed experience has already proved what can be done.

Council and Trade Boards

Joint Industrial Councils differ in many important respects

from such bodies as Trade Boards: their relation and their differences are fully explained in the pamphlet on the subject published by the Ministry of Labor (Industrial Reports, No. 3, Industrial Councils and Trade Boards). Here it is only necessary to emphasize some of the chief points of difference. A Trade Board is a statutory body whose decisions are made binding by law; but an Industrial Council is a voluntary body with no statutory powers. A Trade Board is set up by the government in the case of trades which are not completely organized and in which the wages appear to be exceptionally low. It contains members appointed by the government, but all members of an Industrial Council are elected by associations in the industry. The subjects usually dealt with by an Industrial Council are wider than those usually dealt with by a Trade Board; and a Trade Board usually represents a section rather than a whole of an industry. The new Trade Boards Act of 1918, however, adds considerably to the possible functions of a Trade Board, and makes it possible to increase the number of Trade Boards more rapidly than under the old system.

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The future of the whole organization of industry is still undecided. There may be a very great and important development of the ideas and suggestions expressed in the reports of the Whitley Committee, but that is a matter of prophecy. What has been described in this pamphlet is historical fact, and it is sufficient to indicate how joint consultation between employers and workers may promote the best interest of all concerned.

APPENDIX M

PRONOUNCEMENTS OF THE CHURCHES AS TO INDUSTRIAL PRINCIPLES

I. SOCIAL RECONSTRUCTION: PRONOUNCEMENT OF THE NATIONAL CATHOLIC WAR COUNCIL*

No Profound Changes in the United States

It is not to be expected that as many or as great social changes will take place in the United States as in Europe. Neither our habits of thinking nor our ordinary ways of life have undergone a profound disturbance. The hackneyed phrase: "Things will never again be the same after the war," has a much more concrete and deeply felt meaning among the European peoples. Their minds are fully adjusted to the conviction and expectation that these words will come true. In the second place, the devastation, the loss of capital and of men, the changes in individual relations and the increase in the activities of government have been much greater in Europe than in the United States. Moreover, our superior natural advantages and resources, the better industrial and social condition of our working classes still constitute an obstacle to anything like revolutionary changes. It is significant that no social group in America, not even among the wage-earners, has produced such a fundamental and radical program of reconstruction as the Labor Party of Great Britain.

A Practical and Moderate Program

No attempt will be made in these pages to formulate a

*This pronouncement was issued in 1919 by the Administrative Committee of the National Catholic War Council, and signed by: the Right Reverend Peter J. Muldoon, Bishop of Rockford; the Right Reverend Joseph Schrembs, Bishop of Toledo; the Right Reverend Patrick J. Hayes, Bishop of Tagaste; and the Right Reverend William T. Russell, Bishop of Charleston.

The pronouncement is published as Reconstruction Pamphlet No. 1 by the Committee on Special War Activities of the National War Council, Washington, D. C. The full title is "Social Reconstruction, a General Review of the Problems and Survey of Remedies."

comprehensive scheme of reconstruction. Such an undertaking would be a waste of time as regards immediate needs and purposes, for no important group or section of the American people is ready to consider a program of this magnitude. Attention will, therefore, be confined to those reforms that seem to be desirable and also obtainable within a reasonable time, and to a few general principles which should become a guide to more distant developments. A statement thus circumscribed will not merely present the objects that we wish to see attained, but will also serve as an imperative call to action. It will keep before our minds the necessity for translating our faith into works. In the statements of immediate proposals we shall start, wherever possible, from those governmental agencies and legislative measures which have been to some extent in operation during the war. These come before us with the prestige of experience and should, therefore, receive first consideration in any program that aims to be at once practical and persuasive.

The first problem in the process of reconstruction is the industrial replacement of the discharged soldiers and sailors. The majority of these will undoubtedly return to their previous occupations. However, a very large number of them will either find their previous places closed to them, or will be eager to consider the possibility of more attractive employments. The most important single measure for meeting this situation that has yet been suggested is the placement of such men on farms. Several months ago Secretary Lane recommended to Congress that returning soldiers and sailors should be given the opportunity to work at good wages upon some part of the millions upon millions of acres of arid, swamp, and cut-over timber lands, in order to prepare them for cultivation. President Wilson in his annual address to Congress endorsed the proposal. As fast as this preliminary task has been performed, the men should be assisted by government loans to establish themselves as farmers, either as owners or as tenants having long-time leases. It is essential that both the work of preparation and the subsequent settlement of the land should be effected by groups or colonies, not by men living independently of

one another and in depressing isolation. A plan of this sort is already in operation in England. The importance of the project as an item of any social reform program is obvious. It would afford employment to thousands upon thousands, would greatly increase the number of farm owners and independent farmers and would tend to lower the cost of living by increasing the amount of agricultural products. If it is to assume any considerable proportions it must be carried out by the governments of the United States and of the several States. Should it be undertaken by these authorities and operated on a systematic and generous scale, it would easily become one of the most beneficial reform measures that has ever been attempted.

United States Employment Service

The reinstatement of the soldiers and sailors in urban industries will no doubt be facilitated by the United States Employment Service. This agency has attained a fair degree of development and efficiency during the war. Unfortunately, there is some danger that it will go out of existence or be greatly weakened at the end of the period of demobilization. It is the obvious duty of Congress to continue and strengthen this important institution. The problem of unemployment is with us always. Its solution requires the cooperation of many agencies, and the use of many methods; but the primary and indispensable instrument is a national system of labor exchange, acting in harmony with State, municipal and private employment bureaus.

Women War Workers

One of the most important problems of readjustment is that created by the presence in industry of immense numbers of women who have taken the places of men during the war. Mere justice, to say nothing of chivalry, dictates that these women should not be compelled to suffer any greater loss or inconvenience than is absolutely necessary; for their services to the nation have been second only to the services of the men whose places they were called upon to fill. One general principle is clear: No female worker should remain in any occupation that is harmful to health or

morals. Women should disappear as quickly as possible from such tasks as conducting and guarding street-cars, cleaning locomotives, and a great number of other activities for which conditions of life and their physique render them unfit. Another general principle is that the proportion of women in industry ought to be kept within the smallest practical limits. If we have an efficient national employment service, if a goodly number of the returned soldiers and sailors are placed on the land, and if wages and the demand for goods are kept up to the level which is easily attainable, all female workers who are displaced from tasks that they have been performing only since the beginning of the war will be able to find suitable employments in other parts of the industrial field, or in those domestic occupations which sorely need their presence. Those women who are engaged at the same tasks as men should receive equal pay for equal amounts and qualities of work.

National War Labor Board

One of the most beneficial governmental organizations of the war is the National War Labor Board. Upon the basis of a few fundamental principles, unanimously adopted by the representatives of labor, capital, and the public, it has prevented innumerable strikes, and raised wages to decent levels in many different industries throughout the country. Its main guiding principles have been a family living wage for all male adult laborers; recognition of the right of labor to organize, and to deal with employers through its chosen representatives; and no coercion of non-union laborers by members of the union. The War Labor Board ought to be continued in existence by Congress, and endowed with all the power for effective action that it can possess under the Federal constitution. The principles, methods, machinery and results of this institution constitute a definite and far-reaching gain for social justice. No part of this advantage should be lost or given up in time of peace

Present Wage Rates Should Be Sustained

The general level of wages attained during the war should not be lowered. In a few industries, especially some

directly and peculiarly connected with the carrying on of war, wages have reached a plane upon which they can not possibly continue for this grade of occupations. But the number of workers in this situation is an extremely small proportion of the entire wage-earning population. The overwhelming majority should not be compelled or suffered to undergo any reduction in their rates of remuneration, for two reasons: First, because the average rate of pay has not increased faster than the cost of living; second, because a considerable majority of the wage-earners of the United States, both men and women, were not receiving living wages when prices began to rise in 1915. In that year, according to Lauck and Sydenstricker, whose work is the most comprehensive on the subject, four-fifths of the heads of families obtained less than eight hundred dollars, while two-thirds of the female wage-earners were paid less than four hundred dollars. Even if the prices of goods should fall to the level on which they were in 1915—something that can not be hoped for within five years—the average present rates of wages would not exceed the equivalent of a decent livelihood in the case of the vast majority. The exceptional instances to the contrary are practically all among the skilled workers. Therefore, wages on the whole should not be reduced even when the cost of living recedes from its present high level.

Even if the great majority of workers were now in receipt of more than living wages, there are no good reasons why rates of pay should be lowered. After all, a living wage is not necessarily the full measure of justice. All the Catholic authorities on the subject explicitly declare that this is only the minimum of justice. In a country as rich as ours, there are very few cases in which it is possible to prove that the worker would be getting more than that to which he has a right if he were paid something in excess of this ethical minimum. Why then, should we assume that this is the normal share of almost the whole laboring population? Since our industrial resources and instrumentalities are sufficient to provide more than a living wage for a very large proportion of the workers, why should we acquiesce in a theory which denies them this measure of the comforts

of life? Such a policy is not only of very questionable morality, but is unsound economically. The large demand for goods, which is created and maintained by high rates of wages and high purchasing power by the masses is the surest guaranty of a continuous and general operation of industrial establishments. It is the most effective instrument of prosperity for labor and capital alike. The principal beneficiaries of a general reduction of wages would be the less efficient among the capitalists, and the more comfortable sections of the consumers. The wage-earners would lose more in remuneration than they would gain from whatever fall in prices occurred as a direct result of the fall in wages. On grounds both of justice and sound economics, we should give our hearty support to all legitimate efforts made by labor to resist general wage reductions.

Housing for Working Classes

Housing projects for war workers which have been completed, or almost completed by the Government of the United States, have cost some forty million dollars, and are found in eleven cities. While the Federal Government cannot continue this work in time of peace, the example and precedent that it has set, and the experience and knowledge that it has developed, should not be forthwith neglected and lost. The great cities in which congestion and other forms of bad housing are disgracefully apparent ought to take up and continue the work, at least to such an extent as will remove the worst features of a social condition that is a menace at once to industrial efficiency, civic health, good morals and religion.

Reduction of the Cost of Living

During the war the cost of living has risen at least seventy-five per cent above the level of 1913. Some check has been placed upon the upward trend by government fixing of prices. If we believe it desirable, we can not ask that the Government continue this action after the articles of peace have been signed; for neither public opinion nor Congress is ready for such a revolutionary policy. If the

extortionate practises of monopoly were prevented by adequate laws and adequate law enforcement, prices would automatically be kept at as low a level as that to which they might be brought by direct Government determination. Just what laws, in addition to those already on the statute books, are necessary to abolish monopolistic extortion is a question of detail that need not be considered here. In passing, it may be noted that Government competition with monopolies that cannot be effectively restrained by the ordinary antitrust laws deserves more serious consideration than it has yet received.

More important and more effective than any Government regulation of prices would be the establishment of cooperative stores. The enormous toll taken from industry by the various classes of middlemen is now fully realized. The astonishing difference between the price received by the producer and that paid by the consumer has become a scandal of our industrial system. The obvious and direct means of reducing this discrepancy and abolishing unnecessary middlemen, is the operation of retail and wholesale mercantile concerns under the ownership and management of the consumers. This is no Utopian scheme. It has been successfully carried out in England and Scotland through the Rochdale system. Very few serious efforts of this kind have been made in this country because our people have not felt the need of these cooperative enterprises as keenly as the European working classes, and because we have been too impatient and too individualistic to make the necessary sacrifices and to be content with moderate benefits and gradual progress. Nevertheless, our superior energy, initiative and commercial capacity will enable us, once we set about the task earnestly, even to surpass what has been done in England and Scotland.

In addition to reducing the cost of living, the cooperative stores would train our working people and consumers generally in habits of saving, in careful expenditure, in business method, and in the capacity for cooperation. When the working classes have learned to make the sacrifices and to exercise the patience required by the ownership and operation of cooperative stores, they will be equipped to under-

take a great variety of tasks and projects which benefit the community immediately, and all its constituent members ultimately. They will then realize the folly of excessive selfishness and senseless individualism. Until they have acquired this knowledge, training and capacity, desirable extensions of governmental action in industry will not be attended by a normal amount of success. No machinery of government can operate automatically, and no official and bureaucratic administration of such machinery can ever be a substitute for intelligent interest and cooperation by the individuals of the community.

The Legal Minimum Wage

Turning now from those agencies and laws that have been put in operation during the war to the general subject of labor legislation and problems, we are glad to note that there is no longer any serious objection urged by impartial persons against the legal minimum wage. The several States should enact laws providing for the establishment of wage rates that will be at least sufficient for the decent maintenance of a family, in the case of all male adults, and adequate to the decent individual support of female workers. In the beginning the minimum wages for male workers should suffice only for the present needs of the family, but they should be gradually raised until they are adequate to future needs as well. That is, they should be ultimately high enough to make possible that amount of saving which is necessary to protect the worker and his family against sickness, accidents, invalidity and old age.

Social Insurance

Until this level of legal minimum wages is reached the worker stands in need of the device of insurance. The State should make comprehensive provision for insurance against illness, invalidity, unemployment, and old age. So far as possible the insurance fund should be raised by a levy on industry, as is now done in the case of accident compensation. The industry in which a man is employed should provide him with all that is necessary to meet all the needs of his entire life. Therefore, any contribution

to the insurance fund from the general revenues of the State should be only slight and temporary. For the same reason, no contribution should be exacted from any worker who is not getting a higher wage than is required to meet the present needs of himself and family. Those who are below that level can make such a contribution only at the expense of their present welfare. Finally, the administration of the insurance laws should be such as to interfere as little as possible with the individual freedom of the worker and his family. Any insurance scheme, or any administrative method, that tends to separate the workers into a distinct and dependent class, that offends against their domestic privacy and independence, or that threatens individual self-reliance and self-respect, should not be tolerated. The ideal to be kept in mind is a condition in which all the workers would themselves have the income and the responsibility of providing for all the needs and contingencies of life, both present and future. Hence, all forms of State insurance should be regarded as merely a lesser evil, and should be so organized and administered as to hasten the coming of the normal condition.

The life insurance offered to soldiers and sailors during the war should be continued, so far as the enlisted men are concerned. It is very doubtful whether the time has yet arrived when public opinion would sanction the extension of general life insurance by the government to all classes of the community.

The establishment and maintenance of municipal health inspection in all schools, public and private, is now pretty generally recognized as of great importance and benefit. Municipal clinics where the poorer classes could obtain the advantage of medical treatment by specialists at a reasonable cost would likewise seem to have become a necessity. A vast amount of unnecessary sickness and suffering exists among the poor and the lower middle classes because they can not afford the advantages of any other treatment except that provided by the general practitioner. Every effort should be made to supply wage-earners and their families with specialized medical care through develop-

ment of group medicine. Free medical care should be given only to those who can not afford to pay.

Labor Participation in Industrial Management

The right of labor to organize and to deal with employers through representatives has been asserted above in connection with the discussion of the War Labor Board. It is to be hoped that this right will never again be called in question by any considerable number of employers. In addition to this, labor ought gradually to receive greater representation in what the English group of Quaker employers have called the "industrial" part of business management—"the control of processes and machinery; nature of product; engagement and dismissal of employees; hours of work, rates of pay, bonuses, etc.; welfare work; shop discipline; relations with trade-unions." The establishment of shop committees, working wherever possible with the trade-union, is the method suggested by this group of employers for giving the employees the proper share of industrial management. There can be no doubt that a frank adoption of these means and ends by employers would not only promote the welfare of the workers, but vastly improve the relations between them and their employers, and increase the efficiency and productiveness of each establishment.

There is no need here to emphasize the importance of safety and sanitation in work places, as this is pretty generally recognized by legislation. What is required is an extension and strengthening of many of the existing statutes, and a better administration and enforcement of such laws everywhere.

Vocational Training

The need of industrial, or as it has come to be more generally called, vocational training, is now universally acknowledged. In the interest of the nation as well as in that of the workers themselves, this training should be made substantially universal. While we cannot now discuss the subject in any detail, we do wish to set down two general observations. First, the vocational training should be offered in such forms and conditions as not to deprive the

children of the working classes of at least the elements of a cultural education. A healthy democracy cannot tolerate a purely industrial or trade education for any class of its citizens. We do not want to have the children of the wage-earners put into a special class in which they are marked as outside the sphere of opportunities for culture. The second observation is that the system of vocational training should not operate so as to weaken in any degree our parochial schools or any other class of private schools. Indeed, the opportunities of the system should be extended to all qualified private schools on exactly the same basis as to public schools. We want neither class divisions in education nor a State monopoly of education.

Child Labor

The question of education naturally suggests the subject of child labor. Public opinion in the majority of the States of our country has set its face inflexibly against the continuous employment of children in industry before the age of sixteen years. Within a reasonably short time all of our States, except some stagnant ones, will have laws providing for this reasonable standard. The education of public opinion must continue, but inasmuch as the process is slow, the abolition of child labor in certain sections seems unlikely to be brought about by the legislatures of those States, and since the Keating-Owen Act has been declared unconstitutional, there seems to be no device by which this reproach to our country can be removed except that of taxing child labor out of existence. This method is embodied in an amendment to the Federal Revenue Bill which would impose a tax of ten per cent on all goods made by children.

Sufficient for the Present

Probably the foregoing proposals comprise everything that is likely to have practical value in a program of immediate social reconstruction for America. Substantially all of these methods, laws and recommendations have been recognized in principle by the United States during the war, or have been indorsed by important social and industrial groups and organizations. Therefore, they are objects

that we can set before the people with good hope of obtaining a sympathetic and practical response. Were they all realized, a great step would have been taken in the direction of social justice. When they are all put into operation the way will be easy and obvious to still greater and more beneficial result.

Ultimate and Fundamental Reforms

Despite the practical and immediate character of the present statement, we can not entirely neglect the question of ultimate aims and a systematic program; for other groups are busy issuing such systematic pronouncements, and we all need something of the kind as a philosophical foundation and as a satisfaction to our natural desire for comprehensive statements.

It seems clear that the present industrial system is destined to last for a long time in its main outlines. That is to say, private ownership of capital is not likely to be supplanted by a collectivist organization of industry at a date sufficiently near to justify any present action based on the hypothesis of its arrival. This forecast we recognize as not only extremely probable, but as highly desirable; for, other objections apart, Socialism would mean bureaucracy, political tyranny, the helplessness of the individual as a factor in the ordering of his own life, and in general inefficiency and decadence.

Main Defects of Present System

Nevertheless, the present system stands in grievous need of considerable modifications and improvement. Its main defects are three: Enormous inefficiency and waste in the production and distribution of commodities; insufficient incomes for the great majority of wage-earners, and unnecessarily large incomes for a small minority of privileged capitalists. Inefficiency in the production and distribution of goods would be in a great measure abolished by the reforms that have been outlined in the foregoing pages. Production would be greatly increased by universal living wages, by adequate industrial education, and by harmonious relations between labor and capital on the basis of adequate

participation by the former in all the industrial aspects of business management. The waste of commodity distribution could be practically all eliminated by cooperative mercantile establishments, and cooperative selling and marketing associations.

Cooperation and Copartnership

Nevertheless, the full possibilities of increased production will not be realized so long as the majority of workers remain mere wage-earners. The majority must somehow become owners, or at least in part, of the instruments of production. They can be enabled to reach this stage gradually through cooperative productive societies and copartnership arrangements. In the former, the workers own and manage the industries themselves; in the latter they own a substantial part of the corporate stock and exercise a reasonable share in the management. However slow the attainments of these ends, they will have to be reached before we can have a thoroughly efficient system of production, or an industrial and social order that will be secure from the danger of revolution. It is to be noted that this particular modification of the existing order, tho far-reaching and involving to a great extent the abolition of the wage system, would not mean the abolition of private ownership. The instruments of production would still be owned by individuals, not by the State.

Increased Incomes for Labor

The second great evil, that of insufficient income for the majority, can be removed only by providing the workers with more income. This means not only universal living wages, but the opportunity of obtaining something more than that amount for all who are willing to work hard and faithfully. All the other measures for labor betterment recommended in the preceding pages would likewise contribute directly or indirectly to a more just distribution of wealth in the interest of the laborer.

Abolition and Control of Monopolies

For the third evil mentioned above, excessive gains by

a small minority of privileged capitalists, the main remedies are prevention of monopolistic control of commodities, adequate government regulation of such public service monopolies as will remain under private operation, and heavy taxation of incomes, excess profits and inheritances. The precise methods by which genuine competition may be restored and maintained among businesses that are naturally competitive, can not be discussed here; but the principle is clear that human beings can not be trusted with the immense opportunities for oppression and extortion that go with the possession of monopoly power. That the owners of public service monopolies should be restricted by law to a fair or average return on their actual investment, has long been a recognized principle of the courts, the legislature, and public opinion. It is a principle which should be applied to competitive enterprises likewise, with the qualification that something more than the average rate of return should be allowed to men who exhibit exceptional efficiency. However, good public policy, as well as equity, demands that these exceptional business men share the fruits of their efficiency with the consumer in the form of lower prices. The man who utilizes his ability to produce cheaper than his competitors for the purpose of exacting from the public as high a price for his product as is necessary for the least efficient business man, is a menace rather than a benefit to industry and society.

Our immense war debt constitutes a particular reason why incomes and excess profits should continue to be heavily taxed. In this way two important ends will be attained: the poor will be relieved of injurious tax burdens, and the small class of specially privileged capitalists will be compelled to return a part of their unearned gains to society.

A New Spirit a Vital Need

"Society," said Pope Leo XIII, "can be healed in no other way than by a return to Christian life and Christian institutions." The truth of these words is more widely perceived to-day than when they were written, more than twenty-seven years ago. Changes in our economic and political systems will have only partial and feeble efficiency

if they be not reinforced by the Christian view of work and wealth. Neither the moderate reforms advocated in this paper, nor any other program of betterment or reconstruction will prove reasonably effective without a reform in the spirit of both labor and capital. The laborer must come to realize that he owes his employer and society an honest day's work in return for a fair wage, and that conditions can not be substantially improved until he roots out the desire to get a maximum of return for a minimum of service. The capitalist must likewise get a new viewpoint. He needs to learn the long-forgotten truth that wealth is a stewardship, that profit-making is not the basic justification of business enterprise, and that there are such things as fair profits, fair interest, and fair prices. Above and before all, he must cultivate and strengthen within his mind the truth which many of his class have begun to grasp for the first time during the present war; namely, that the laborer is a human being, not merely an instrument of production; and that the laborer's right to a decent livelihood is the first moral charge upon industry. The employer has a right to get a reasonable living out of his business, but he has no right to interest on his investment until his employees have obtained at least living wages.

This is the human and Christian, in contrast to the purely commercial and pagan, ethics of industry.

2. THE CHURCH AND SOCIAL RECONSTRUCTION

PASTORAL LETTER BY THE BOARD OF BISHOPS OF THE METHODIST EPISCOPAL CHURCH

(The Christian Advocate,
New York, Thursday, May 22, 1919)

The Bishops of the Methodist Episcopal Church, assembled in regular session, call upon the ministers and laymen of the Church to give most earnest heed to the application of Christian principles to social reconstruction. It is increasingly manifest that there must be progress away from selfish competition to unselfish cooperation in that struggle for daily bread which is the largest single fact

in the life of the majority of men in any community. If this progress is to be orderly and not violent we must leave behind us the evils which lead to deplorable violence or counter violence by either party. If Christianity is a driving force, making for democracy, we can not put a limit upon the extension of democracy; we must recognize the inevitability of the application of democracy to industry. While we rejoice in the adoption of all such ameliorative measures as better housing and various forms of social insurance, we call for the more thoroughgoing emphasis on human freedom, which will make democratic progress mean the enlargement and enrichment of the life of the masses of mankind through the self-directive activity of men themselves.

We favor an equitable wage for laborers, which shall have the right of way over rent, interest and profits.

✓ We favor collective bargaining, as an instrument for the attainment of industrial justice and for training in democratic procedure.

And we also favor advance of the workers themselves through profit sharing and through positions on boards of directorship.

In the discussion of all such matters we urge all individuals and groups to hold fast the tolerance which comes out of mutual respect, and to keep always in mind that the richest source of sound social idealism is the Gospel of Jesus Christ.

Adopted by the Board of Bishops of the Methodist Episcopal Church, Buffalo, N. Y., May 10, 1919.

L. B. WILSON, Secretary.

3. RESOLUTION REGARDING INDUSTRIAL RELATIONS: PRESBYTERIAN CHURCH, GENERAL ASSEMBLY

May 21, 1919

Whereas, the General Assembly has learned with great satisfaction that the President in his message to Congress under date of May 20, 1919, has expressed himself in reference to the industrial problem in the following terms:

"The object of all reform in this essential matter must be the genuine democratization of industry, based upon a full recognition of the right of those who work, in whatever rank, to participate in some organic way in every decision which directly affects their welfare or the part they are to play in industry."

Be it therefore Resolved, That the General Assembly of the Presbyterian Church of the United States of America, in session assembled in the city of St. Louis, May 21, 1919, does heartily approve of the President's courageous, wise and timely deliverance, and in order that we may cooperate most efficiently in making such a program effective,

Be it further Resolved, That the Assembly instruct its Home Mission Board to make a thorough study of the whole industrial problem and to prepare, based upon such study, an outline of practical, remedial steps, which shall be recommended to both churches and legislative bodies.

4. STATEMENT ON INDUSTRIAL RELATIONS:

JOINT COMMISSION ON SOCIAL SERVICE OF THE EPISCOPAL CHURCH

All (programs) alike, however, agree that now is the time when something must be done to insure to the workers and the generally less-favored classes a far greater approximation to substantial justice as between man and man than has thus far, even under the stress of war, been achieved. From these programs in general emerges the clear conviction that labor throughout the world is less and less satisfied with increased wages, decreased hours, and improved conditions of toil, and is more and more insistent on a greater share, if not the greater share, in the control as well as the proceeds of industry. It is really industrial democracy in the fullest sense to which even the international programs or "planks" of labor are primarily directed. It would be folly for the Church to ignore them. Particularly to be commended for study are the Church of England's report on industry, which here follows the program and resolutions of the British Labor

Party, and the statement of interallied labor aims as taking in general the same economic ground, and the various reconstruction statements of the American Catholic War Council, the Canadian Methodist Conferences, the English Friends and the English Church Socialist League. These religious utterances . . . include some of the most radical demands made by any reconstruction conference or agency.

5. CHRISTIANITY AND INDUSTRIAL PROBLEMS:

REPORT OF ARCHBISHOPS COMMITTEE OF THE CHURCH OF ENGLAND

This report is one of five which have come out of the National Mission of Repentance and Hope inaugurated by the Church of England in 1916. The report, published in 1918, calls the Church to consider the social applications of the Gospel, tracing the thought and the practise of Christianity through the ages with reference to the social and economic order, involving the basic questions of property, poverty, slavery, charity, etc., pointing out that the attitude especially of the medieval Church was quite different from that of the modern Church, which has been influenced greatly by economic doctrines growing up since the seventeenth century, as a result of changed conditions and new forces in industry. The core of the report may be found in the section (Chapter IV) devoted to "urban life and industry," in which it follows, generally speaking, the lines of the British Labor Party Program (*supra*). The report accepts the wage-system but insists that a new spirit must be introduced into industry and economic life in general, which shall provide not only for "cooperation for public service, not competition for private gains" as "the true principle of industry," but also for adequate remuneration of workers, proper conditions of employment, "adequate leisure," "the prevention of and provision for unemployment," etc. The remainder of the report is given over to a discussion of education, which has application chiefly to characteristic English conditions, tho some of the recommendations, such as "the importance of a liberal edu-

cation for all, the physical welfare of children and young persons, the lengthening of the period of full-time attendance at school, the establishment of compulsory continued education up to the age of eighteen," etc., have application and suggestiveness for American life. The following excerpt from the conclusion of the report is significant: "The democratic movement, just as those movements which preceded it, will not be without its dangers, and the minds of its best and wisest men will not be blind to these An ordered liberty can not maintain itself without self-discipline, selflessness, patriotism, mutual confidence, and brotherliness of spirit, a readiness to serve and suffer for the common good and to trust and follow chosen leaders with loyalty and self-suppression. For all this it will need the strong stuff of deep and sterling character. But it is just to produce these qualities that the Church, if it knows its own business, exists . . . The men, for whom Christ is the real guaranty of moral and spiritual values, will be armed as none other can be against all the practical materialism which is the vast and encroaching peril of complex civilizations. Reflection upon the Lord's own principle that he who would save his life must lose it will show that its true meaning is intensely social . . . The call which is sounding in this day of world judgment is that we should not only hold the faith, but reorder our life—social as well as personal—in accordance with its principles. This we know to be the true mission of the Church. This we are persuaded is the true interest of the community."

6. SUMMARY OF CONCLUSIONS REACHED BY A GROUP OF TWENTY BRITISH QUAKER EMPLOYERS, 1918

(Reprinted from the *Survey* for November 23, 1918)

For some time past a number of employers belonging to the Society of Friends have been feeling, as many other are doing, the duty of examining the way in which their religious faith can be given fuller expression in business life. The following statement, designed as a stimulus to practical action, is an attempt to see how the Quaker con-

ception of the divine worth of all life, which is accepted in wide circles of thought to-day, affects our modern industrial life, and in particular the relationship between employers and employed.

There is perhaps nothing in this statement that is new, nothing that has not been found in the practise of some employers for years, nothing to which those responsible for the statement would have refused their assent before the war. But the period of reconstruction that must follow the war offers an opportunity for a general raising of industrial standards such as our generation has not had before, and imposes a corresponding obligation on each of us to define and face our personal responsibilities.

We have sought in the course of our discussions primarily to discover and define the duties of employers within the present industrial system, not because we hold a brief for it or regard it as ideal, but because the task of changing it immediately is beyond the power of individual employers or groups of employers. We should indeed, as citizens, work towards its alteration in so far as we regard it as inconsistent with the principles of our religion, but in the meantime we can not afford to neglect the urgent needs and the outstanding opportunities which confront us in our own factories. For most of us, does not our business afford the greatest opportunity we have of serving our fellowmen, and have we yet ever fully tested the potentialities of the present system, whatever criticisms may be urged against it, as a field for applied Christian ethics?

The point of view from which we have sought to approach the problem is that employers are persons fulfilling certain necessary functions of organization in the great process of industry, side by side with all others engaged in performing the other functions necessary to the maintenance of that process, and that each of these functions demands its own qualities of character and capacity and carries with it its own obligations and responsibilities. We speak only for employers engaged in the actual management of business, but we wish to state our opinion that shareholders can not divest themselves of their responsibility for the conditions under which their dividends are earned.

We place what we believe to be our true status and function in society in the forefront of our statement, because we believe that its full recognition is the first need of industry to-day. We believe that it is only in so far as those engaged in industry are inspired by a new spirit and regard industry as a national service, to be carried on for the benefit of the community, that any general improvement in industrial relations is possible.

With this initial word of explanation, we give our conclusions under the following heads:

Wages.

The Status of the Workers.

Working Conditions and the Social Life of the Workers.

Appropriation of "Surplus Profits."

Wages

The principle is laid down that a minimum or basic wage should be established in every industry and that there should be a secondary wage depending upon the capacity of the worker.

(a) Basic Wages

The wages paid to a man of average industry and capacity should at least enable him to marry, live in a decent house, and to provide the necessities of physical efficiency for a normal family, while allowing a reasonable margin for contingencies and recreation. A woman should receive equal pay with a man who does similar work. Her basic wage should be the sum necessary to maintain her in a decent dwelling and in a state of full physical efficiency, and to allow a reasonable margin for contingencies and recreation.

(b) Secondary Wages

The secondary wage is remuneration for any special gift, or qualification necessary for the performance of a particular function, e. g., special skill as a tradesman; the special muscular training and power, such as that of a lumberman; responsibility for human life, as in the case of locomotive engine drivers.

It is recognized that the payment of wages on the above basis will require a larger increase in the wage rates in many industries than some of them could at present bear. We believe, however, that the payment of such wages should be regarded by employers as a necessary business liability. Till that is discharged they should very strictly limit their own remuneration for their services, nor should they pay larger dividends upon borrowed capital than is essential to ensure an adequate supply. But if at the moment really adequate wages can not be paid, the earnest attention of the management should be turned to improving the processes, and general efficiency of their business organization, by the use of engineering and chemical science, adequate costing systems, etc.

Cooperation of employees in the form of more energetic and intelligent work is counted on to increase the funds available for the payment of adequate wages. If necessary, the combination of independent firms in order to lessen the waste due to competition should be seriously considered. Where a combination takes place the consumer must be protected either by state action or in some other way against exploitation.

Status

The worker asks to-day for more than an improvement in his economic position. He claims from employers and managers the clear recognition of his rights as a person. The justice of this claim our religion compels us to admit. We can not regard human beings as if they were merely so many units of brain power, so many of nervous or muscular energy. We must cooperate with them, and treat them as we ourselves should wish to be treated. This position involves the surrender by capital of its supposed right to dictate to labor the conditions under which work shall be carried on. It involves more: the frank avowal that all matters affecting the workers should be decided in consultation with them, when once they are recognized as members of an all-embracing human brotherhood.

In order to realize this ideal specific proposals are made, but it is expressly stated that the creation of machinery,

however excellent, is less important than a living desire on the part of employers to give full expression to their fundamental religious beliefs in the relations they establish with their workers.

Of the three elements in management—financial, commercial and industrial,—these conclusions have to do mainly with the last. The industrial management includes the control of processes and machinery; nature of product; engagement and dismissal of employees; hours of work, rates of pay, bonuses, etc.; welfare work; shop discipline; relations with trade-unions.

Shop committees or works councils on a basis of elective representation are advocated as a feature of management. The trade-unions are expressly safeguarded in the proposal against any weakening of their power or interruption of regular procedure. To these committees are to be referred for their opinion or decision questions of wages, discipline, hiring and dismissal, health and welfare work.

Security of Employment

Regarding the industrial life of the worker from the standpoint of his whole personality, hardly anything is of greater moment than that while he is willing to work and capable of doing so he should be able to rely upon a regular income. It is universally acknowledged that insecurity of employment, which is found in the most aggravated form among casual workers, such as dockers, has a deteriorating effect on both physique and character. We believe, moreover, that restricted output, and opposition to the introduction of machinery, are almost always the result of the employee's fear that he or his fellow-worker may be thrown out of employment.

Employers are urged to do all in their power to reduce casual and seasonal labor; to absorb the workers displaced by new machinery, or to secure other work for them; to dismiss employees as a disciplinary measure only as a last resort. A portion of any extra profits arising from labor-saving improvements might be placed to a special reserve fund to compensate workers who may be displaced and cannot be absorbed or placed elsewhere.

Working Conditions

From the moment that worker enters the factory he should be regarded as an integral part of a living organism, not a mere dividend-producing machine, and treated with respect and courtesy. There should be no nagging or bullying by those in authority, but, on the contrary, insight and leadership. This involves careful choice of overlookers and managers, who should be able both to lead and inspire. At present such officers are often selected solely on account of their technical knowledge, and sometimes, it is to be feared, because they possess the faculty of getting work out of men by driving them.

To prepare managers for the difficult task of supervising human relationships, courses of instruction are advocated both for present and for prospective managers. These courses should include psychology as well as economics.

Elaborate provision is advocated for making the material environment of the worker conducive to the greatest happiness and health.

We have merely given examples of the many ways in which a fundamental religious principle must inevitably react upon the conditions of the factory. If it be urged that to carry out the above suggestions would often involve too great an expenditure, we reply that inefficiency and low productivity in the workers are frequently due to the absence of suitable working conditions.

It is recognized that all this discussion covers the employer's responsibility only as an employer. His duties as a citizen are summed up in the principle that industry must be subordinated to the needs of the citizen, not citizenship to the needs of industry.

Appropriation of "Surplus Profits"

By "surplus profits" is here meant any surplus which may remain over when labor has been paid on the scale referred to above, and managers and directors have been remunerated according to the market value of their services; when capital has received the rate of interest necessary to ensure an adequate supply, having regard to the risk involved,

and when necessary reserves have been made for the security and development of the business.

(1) Surplus profits may go to one or more of the following:

- (a) The proprietors of the business whether private individuals or ordinary shareholders.
- (b) The directors and principal managers, who may or may not be the same as the persons mentioned under (a).
- (c) The employees.
- (d) The consumers.
- (e) The community generally.

(2) We can not believe that either the proprietors or the workers are entitled to the whole of the surplus profits of the business, tho they might reasonably ask for such a share as would give them an interest in its financial prosperity.

(3) The consumer should never be exploited. The price charged to him should always be reasonable, having in view the average cost of production and distribution; and the State should be asked to interfere to protect his interests when they are threatened by monopoly.

(4) We believe that in equity the community may claim the greater part of surplus profits. If this is not taken in the form of taxation, we think that it should be regarded by those into whose hands it passes as held in trust for the community. We are not prepared to suggest in detail schemes by which such a trust should be administered. If the profits are taken in the ordinary way by the proprietor, they should be regarded as a trust and spent for the common good, or the proprietors might limit the amount they themselves took out of the business, while surplus profits were put into a separate account, and spent, at the joint discretion of the proprietors and workers, for the benefit of the general public. Our point is that the bulk of them at least belongs to the community and should be used in its interests.

In this connection we would ask all employers to consider very carefully whether their style of living and personal expenditure are restricted to what is needed to ensure the efficient performance of their functions in society. More than this is waste, and is, moreover, a great cause of class divisions.

Conclusion

In regard to many of the matters referred to in the preceding pages there is ample room for experiments. Pioneers and explorers, and "the makers of roads," are needed just as urgently in the industrial sphere as in the opening up of new tracts of fertile country. But we believe that if the longing for a better social order once grips the employing classes, such pioneers will not be lacking.

We believe it to be our duty to promote a progressive spirit in the various trade organizations with which we may be associated. In this connection we suggest the desirability of giving full information as to wages, average costs, and average profits in the industry, as a basis for effectual collective bargaining, and as a recognition of the public character of our industrial functions.

Some employer may tell us that we are asking him to draw too many practical inferences from a religious formula. But the conviction we have outlined is more than a formula. It is a vantage ground, from which we can survey the whole field of social and industrial life, seeing in it, not sheer blind turmoil, but a vast meaning and a vast hope. There is but one way of escaping from the implications of such a conviction, to abandon it entirely, to forsake the vantage ground, and to forget the only vision that could dominate our whole lives. Then the world of industry may revert to a soulless chaos in which we strive for our own ends. But those ends, even as we achieve them, will seem meaningless and vain.

Doubtless, to take the other course, and claim for our religious faith the final word upon the problems with which industry confronts us, may tax severely not only our financial resources, but heart, and will, and brain. But is this a disadvantage?

7. THE CHURCH AND SOCIAL RECONSTRUCTION:

FEDERAL COUNCIL OF THE CHURCHES OF CHRIST IN AMERICA

Social Reconstruction

The Social Creed of the Churches was formulated seven years ago as a statement of the social faith of the Protestant churches of the United States. Altho necessarily general in its terms, it has been understood, and has had far reaching influence, especially in crystallizing the thought of Christian people. It has stood the test of these years, and we now reaffirm it as still expressing the ideals and purposes of the churches. But this earlier statement of social faith now requires additional statements to meet the changed world which has come out of the war. The declarations that follow may be considered as corollaries of these long-standing articles of faith. They should be read in connection with the statement on reconstruction of the various denominations in the United States and Canada, and the significant monograph of the Archbishop's Fifth Committee of the Church of England.

The Method

In some respects, the most urgent question before the world at the present time is the method of social reconstruction; shall it be by constitutional and peaceable methods, or by class struggle and violence? Shall we be willing to suddenly overturn the social order according to untried theories of industrial and political organization; or beginning where we are, and conserving what has been achieved in the past, shall we proceed by social experimentation, going as far and as fast as experience demonstrates to be necessary and desirable? In America, where, as in England, the people hold political power and freedom of discussion and association, and can do finally whatever they will, there is every reason for following the second method.

The supreme teachings of Christ are of love and brotherhood. Those express themselves, in a democracy, in the

cooperation of every citizen, for the good of each and all. This results ideally in a noble mutualism and in equal and world-wide justice, which constitute the highest goal of human endeavor. The doctrine of the class-conscious struggle is opposed to this ideal. It is a reversion to earlier forms of competitive struggle. It not only strikes at injustice by greater and more savage injustice, but tends in practise to the breaking up of society, even of radical groups, into bitterly antagonistic factions, thus defeating its own ends. The dictatorship of the proletariat in practise is a new absolutism in the hands of a few men, and is as abhorrent as any other dictatorship. The hope of the world is in the cooperation of individuals and classes and the final elimination of classes in the brotherhood of a Christian society. To build up this cooperation should be the supreme endeavor of the churches.

Tendencies to Violence

Class consciousness and the use of violence are not confined to revolutionary groups. The possession of wealth and education tend to the formation of classes, and industrial ownership and management to a class conscious ruling group. We observe also with regret and deep concern numerous resorts to mob action in which returned soldiers and workmen have sometimes participated, frequently without police restraint, the continuing incitement to riot by certain public officials and periodicals, especially the partisan press with its misrepresentation and inflaming spirit, and the unfortunate and dangerous tendency of many state and municipal officials to deny fair hearings to radical offenders, and to use unnecessary and provocative brutality during strikes.

While conspiracy and violence must be restrained by the police and military forces of the State, these should be used to maintain public peace and safety, and with due regard to the established rights of freedom of speech and peaceable assembly. It is undesirable that private citizens or groups of vigilantes should be allowed to take the law into their own hands. Legislators, judges and officials should act firmly but justly, without bluster and without

unnecessary violence. Workingmen believe that they do not get an equal chance before the law, and it is highly important that whatever real basis there is for this conviction should be removed.

Labor's Share in Management

A deep cause of unrest in industry is the denial to labor of a share of industrial management. Controversies over wages and hours never go to the root of the industrial problem. Democracy must be applied to the government of industry as well as to the government of the nation, as rapidly and as far as the workers shall become able and willing to accept such responsibility. Laborers must be recognized as being entitled to as much consideration as employers and their rights must be equally safeguarded. This may be accomplished by assuring the workers, as rapidly as it can be done with due consideration to conditions, a fair share in control, especially in matters where they are directly involved; by opportunity for ownership, with corresponding representation; or, by a combination of ownership and control in cooperative production.

Trade agreements between employers and labor organizations can make provision for joint settlement of grievances, for guaranties against aggression by the employer or the men, for wilful limitation of output, for a shop discipline that shall be educative and shall make for efficiency by promoting good will. The various movements toward industrial councils and shop committees have not only an economic but a spiritual significance, in that they are or may be expressions of brotherhood, and recognize the right of the worker to full development of personality.

Rights and Obligations

One high value which comes with the participation of labor in management is that it makes possible again the hearty cooperation of all engaged in an industry and a new era of good will. Therefore, along with the rights involved in social justice go corresponding obligations. With the development of industrial democracy, the evidences of which are all about us, and the coming of the short work-

day the importance of genuine cooperation in industrial processes and efficient production must be impressed upon large numbers of workers. As the worker tends to receive approximately what he produces, it must become apparent that what he has for himself and family, and the social surplus upon which depend the great common undertakings of society, are directly related to the productivity of his own labor, as well as finally to the length of the working day.

Industry as Service

The Christian and modern conception of industry makes it a public service. The parties of interest are not only labor and capital, but also the community, whose interest transcends that of either labor or capital. The state, as the governmental agency of the community, with the cooperation of all involved, should attempt to secure to the worker an income sufficient to maintain his family at a standard of living which the community can approve. This living wage should be made the first charge upon industry before dividends are considered. As to excess profits: after a just wage, fair salaries, interest upon capital and sinking funds have been provided, we commend the spirit and the conclusions of the Twenty British Quaker Employers in awarding the larger part of excess profits to the community, to be devoted voluntarily to public uses, or returned by taxation.

High Wages

The hoped-for reduction in the cost of living has not yet materialized, and it is now evident that we are on a permanently higher price level. The resistance of labor to general wage reductions, even when accompanied by reduced hours of work should therefore receive moral support from the community except where the demand is clearly unreasonable. Wage levels must be high enough to maintain a standard of living worthy of responsible free citizenship in a democracy. As was pointed out in the statement on Social Reconstruction by the National Catholic War Council, a considerable majority of the wage-earners of the United States were not receiving living

wages when prices began to rise in 1915. Real wages are also relative to the cost of living and vary with the purchasing power of the dollar. Actual wages, that is wages reckoned in power to purchase commodities, have been decreasing for several years in spite of wage increases. There is urgent need of provision by industry, under the guidance of the government, for some regular method of adjustment of wages and salaries to the purchasing power of money.

High wages are desirable as a general principle, since they mean, or should mean, a fairer share of the industrial product, greater purchasing power, and consequently, stimulated trade and greater happiness, health and hopefulness for the workers and their families. It should be kept in mind that under machine production, with a proper method of distribution, all might work and all might share in comparative plenty. Employers who plead a falling market, aggravated competition, increased hazard, or exceptional conditions in justification of low wages or wage reductions, should support their contentions by opening their books and submitting their figures to public scrutiny.

Unemployment

Unemployment is one of the tragedies of the present industrial order, which the war has demonstrated can be controlled, or at least effectively reduced by the Government and cooperating voluntary agencies. Any adequate attempt to meet the problem of unemployment should include:

(a) Rehabilitation and permanent maintenance of a co-ordinated nation-wide employment service.

(b) Reorganization of seasonal trades, wherever practicable, so as to make continuous employment possible.

(c) A policy of public works and land settlement framed with particular reference to the absorption of unemployed labor.

(d) A guarded extension of provisions and opportunities for social insurance to cover unemployment due to industrial conditions or to ill health, accident or old age. To offer work, is more valuable than unemployment insurance.

(e) The rehabilitation of industrial cripples under the direction of the state and at the expense of industry. The possibilities of such rehabilitation have been demonstrated in relation to the cripples of war.

Vocational Training

The provision made by the Federal Government for the vocational training of large numbers of soldiers and sailors, including all participants in the war who suffered any considerable disability, should be the beginning of a general policy of vocational training, not merely in the interest of industrial efficiency, or primarily for private profit, but as part of a sound educational policy. It should include the human relations and social responsibilities of industry, and the general principles of industrial democracy. Secondary, higher and professional education should be made more generally available to those who can not meet their high cost, so that the best training shall be placed effectively within the reach of the aspiring youth of the humblest household.

Paying for the War

The American war debt, while not comparable with that of European belligerents, will yet be very large. Powerful influences are organized to shift the burdens of this debt upon the public, while the public itself is unorganized and practically unable to protect itself. A beginning has been made in direct taxes, some of which have been levied upon the minor luxuries of the people, and a revolt has already taken place against this policy throughout the country. These taxes are now likely to be charged up to producers, and they in turn will recoup themselves by indirect charges, the fairness of which the public will not be in a position to estimate.

Perhaps no greater or more perplexing problem of fair distribution of wealth has ever been faced in this country. It is very necessary that a policy in the matter shall be carefully worked out in the interest of public welfare, to maintain, and, if possible, to advance the general standard of living, and that it shall not be settled by a selfish struggle

of interests. While the cost of the war should fall in a fair measure upon all, resolute use should be made of the now accepted graduated income and inheritance taxes, as a just method for placing the heavier burdens of the debt upon those most able to bear them, and lifting them correspondingly from the shoulders of those least able to carry them.

Freedom of Discussion

The inevitable special restrictions, during the war, upon speech, assembly and the press, should be removed with the signing of the peace covenant. While immunity can never be granted to one who speaks or acts knowingly against the public safety, censorship is essentially abhorrent in a democracy, and can be tolerated only in a compelling emergency. To those imprisoned for conscientious reasons, whose offenses were prompted by motives that were beyond a reasonable doubt honest and disinterested, general amnesty should be granted as soon as peace is established. The continued imprisonment of such persons can result only in a sense of injury that makes for discontent, and in depriving the communities to which they belong of that service which, the war being over, they may safely be counted upon to render.

Democratic Rights of Women

The importance of the democratic rights of women is not as yet comprehended by public opinion. Their freedom, their right to political and economic equality with men, are fundamental to democracy and to the safety of the future. The church stands also for adequate safeguards to industrial women, for a living wage, the eight-hour day as a maximum requirement; prohibition of night work, equal pay for equal work, and other standard requirements of industry in which women are engaged.

The necessity for protective legislation, such as the limiting of hours and the prohibition of night work, is shown by the survey of women's labor in one of the States, submitted to the Governor by the Director of the Women in Industry Service of the Federal Department of Labor, which reveals that out of 112 large plants studied, only

ten per cent have an eight-hour day, and one-third of the employers of plants worked women as long as sixty-five, seventy-three, seventy-five, eighty-four and eighty-eight hours and forty minutes a week. Five States have as yet no legislation governing the working hours of women.

While taking these positions the church believes that home making and motherhood will always be the great profession of womankind; and to this end, the church should use its great influence to secure for woman in the home, economic independence, the control of her own person, and a professional standing in her work equal to that of men in any service which they render.

Justice to the Negro

The splendid service of the colored soldiers in the war, and the unanimous loyalty and devotion of the colored people of the nation, reinforce the justness of the demand that they should be recognized fully as Americans and fellow citizens, that they should be given equal economic and professional opportunities, with increasing participation in all community affairs and that a spirit of friendship and cooperation should obtain between the white and colored people, north and south. The colored people should have parks and playgrounds, equal wages for equal work, adequate and efficient schools, equal facilities and courtesy when traveling, adequate housing, lighting and sanitation, police protection and equality before the law. Especially should the barbarism of lynching be condemned by public opinion and abolished by rigorous measures and penalties.

Housing

The housing situation in the cities and industrial communities of the nation has become serious because of the cessation of building during the war and is resulting in overcrowding and marked increase of rents. The war-time housing projects of the Government, where they are well located and clearly needed, should be completed. Above all, the housing standards set by the Government during the war should never be lowered. In the emergency we urge persons who have free capital, to invest in homes for the

workers, first, however, studying the problem of housing in its modern aspects. It is especially necessary to watch efforts in the various state legislatures to break down protective legislation.

The ideal of housing is to provide every family with a good home, where possible an individual house, at reasonable rates, with standard requirements of light, heat, water, and sanitation; and to encourage home owning by securing a living wage, permanence of employment, cheap transit to and from work, and ending the speculative holding of lands in and around cities and towns.

Menacing Social Facts

The war has brought to the knowledge and attention of the nation, certain menacing social facts. We have learned that one-tenth of our people are unnaturalized aliens; that on an average, twenty-five per cent of the men of the training camps were not able to read a newspaper or to write a letter home; that one-third of the men of the selective draft were physically unfit; that there are approximately two million mental defectives in the United States; that there is an alarming prevalence of venereal infections.

Nation-wide movements are now in formation, under the leadership of departments of the Government, but including the cooperation of the entire social organization of the country, to meet these problems, concentrating especially at this time upon the Americanization of immigrants, and upon sex morality and the control of venereal diseases. All of these movements appeal strongly to the churches and will receive their energetic cooperation.

Americanization

The church is in a position to render great service in Americanization because of its extensive missions to immigrants and because thousands of our churches in crowded areas now reach the foreign born. The contribution of the churches has special value, since, in addition to instruction in English, they are able to interpret the religious and moral ideals of America, and since they work in an atmosphere of brotherliness, with an appreciation of what these

peoples are bringing from the Old World to enrich American life. The church is also deeply concerned that the living conditions of these people shall, as soon as possible, approximate our American standards. If they are underpaid, or poorly housed, or otherwise neglected or exploited, we shall not only fail in their Americanization, but they will drag down the standards of American labor. It should be recognized also that an effective shop management, in which labor is given its proper responsibility, is difficult to organize when the men do not understand each other's speech, and represent divergent national labor experience. Americanization is therefore necessary to the development of industrial democracy.

A New Social Morality

The church has also certain manifest functions and duties in the cooperative effort which is being organized by the Public Health Service for sex morality and the control of venereal diseases. Its most important function is the instruction of children and young people in the spiritual ideals of love and the relation of the sexes; the training of young men to be good husbands and fathers as well as of young women to be good wives and mothers; personal watchfulness by pastors, teachers and leaders of clubs over young people, especially over those who manifest tendencies to indiscretion; educational assistance to parents in the training of their children.

State legislation requiring certificates of freedom from venereal infection before marriage is in an experimental stage. Such laws require careful formulation and a thorough education of public opinion. They should be made a part of regulations aiming to prevent the marriage of persons unfitted to become the parents of children because of these or other infections, or because of other physical or mental disqualifications. In the absence of such laws, or of their effective enforcement, parents should look carefully into these matters before the marriage of their children.

The churches should cooperate in community efforts to abolish segregated vice districts, to make humane provision

for prostitutes, and for clinical treatment of infected persons. While favorable to the establishment of clinics for the treatment of infected persons, the church can not advocate prophylaxis. Treatment to prevent infection is likely to result finally in an increase of social immorality, and as has been demonstrated by the experience of segregation, in an increase of venereal diseases. The church must use its utmost educational influence to strengthen self-control and to preserve the religious sanctions of marriage and the integrity of the home.

Repressive and curative measures are inadequate without also a simultaneous attempt to secure a freer scope for normal sex expression through all grades of association between men and women, from comradeship to marriage. To this end it is important to provide abundant wholesome opportunities for the association of the sexes, the possibilities for earlier marriages through economic freedom, and the encouragement of love and unselfish devotion of men and women to each other in the home. The church, which brings both sexes and all ages into normal relations, is admirably fitted to provide for this wholesome association of the sexes, and to do so should become an object of definite endeavor.

Substitutes for the Saloon

Prohibition has now become a part of our basic law. That it should fail of enforcement through apathy, or in consequence of the influence of special interests, is inconceivable in a democratic country. Whatever vigilance is necessary to make the law effective will surely not be lacking.

The passing of the saloon, which with all its pernicious influences, was yet a social center to a multitude of men, creates a new obligation to replace it with wholesome equivalents. Community centers, the church as a social center, fraternal orders and private clubs, public recreation, education in the use of leisure time,—all these should be developed rapidly and with great power and attractiveness. Especially should our churches be opened seven days in the week, with helpful religious, educational and social

activities. But let us remember that the best equivalent is the home; and that whatever makes homes possible and renders them beautiful surpasses every other method.

8. THE PRINCIPLES OF SOCIAL RECONSTRUCTION :

SOCIAL SERVICE COMMITTEE OF THE NORTHERN
BAPTIST CONVENTION

The Principles of Social Reconstruction

The world is in a transition period. Things are in a state of flux. The men of to-day stand on the threshold of a new epoch. They are called to make the molds into which the molten life of society shall be run. They hold in their hands the plastic life of the world, and may determine the social order for many generations. This constitutes at once the peril and the opportunity of this hour.

The World War, now ended, has been a veritable day of judgment. It has revealed the latent possibilities of heroism and devotion in the rank and file of men. It has disclosed also many of the defects and maladjustments in the social order. It has emphasized many well-known needs, and lifted them into a new significance. More than that, the World War has accentuated many vital truths of the Christian faith; it has brought a clearer interpretation of important social principles and shown the necessity of new world policies.

"We are laying the foundations of a new world," says Premier Lloyd George. If these foundations are laid upon abiding principles of justice and brotherhood, the structure will stand and will provide a home for the hopes of humanity. But if through neglect or timidity we accept half-way measures, we shall miss this supreme opportunity and our work will count for little. Our danger is piece-work and compromise. Our first need, therefore, is insight to know the truth, courage to accept nothing but the right, and willingness to go the whole length with Jesus Christ.

The primary defects to-day are in the minds of men and the ideals of nations. There is confusion and conflict within, and so there is conflict and confusion in society. Hence,

the primary reconstruction must be within, in the ideas and ideals of men and nations. A spirit of confidence, of fair play and good will, must take the place of distrust, suspicion, and self-seeking. Men and nations must learn to take thought for the common welfare; to look, not every one on the things of self, but every one also on the things of others. There must be in men a sacrificial attitude of mind, a willingness to subordinate self-interest to the larger good. This spirit and attitude cannot be created by commands or exhortations. They will come through the exposure of the mind to worthy ideals; men will practise the brotherhood of mankind as they live in fellowship with the Father in Heaven. They will esteem others better than themselves as they gain the mind that was in Jesus Christ. They will catch the vision of a redeemed and righteous humanity as they live as citizens of the Kingdom of God. And this brings us to the very door of the churches.

It is not a question whether there shall be some radical changes and thoroughgoing readjustments in the social order. Great changes are inevitable and some readjustments are imperative. But it is a question yet undetermined whether these changes shall come through conflict and confusion, or whether they shall be guided by reason and be motivated by religious ideals. In view of this, the church, as the maker of the people's conscience and the leader of the social faith, has a special duty at this hour. It is necessary that men should understand the fundamental issues of this time, and should know what are the vital principles which should guide their efforts. Beyond all, it is necessary that men should cultivate that attitude of mind which will welcome change and prepare them to make such readjustments as are wise. To resist advance is to drive men into revolution. To expect change and progress is the attitude of religion and the answer of the prayer, "Thy kingdom come."

The following statement embodies some of the principles and aims which the churches, as we believe, are called to interpret and emphasize in this time. The Social Service Committee of the Northern Baptist Convention commends these to the careful consideration of the people. The com-

mittee asks that the "men of good will" in the churches endeavor to reconstruct the social, industrial, and international life upon the great principles of justice, faith, and brotherhood.

1. *The Principles of Reconstruction*

1. *The Church*

The gospel in essence is the same from age to age. But the life of the kingdom demands ever new forms for its expression and realization. The world is changing, and the church must adapt itself to the present need that it may by all means render the largest service. The church is called to reconceive its message and mission; to unify the powers of righteousness and life and lead in some great adventures for the kingdom of God. . . .

2. *Social*

The ideal of the kingdom of God is a perfect life in a perfect society. Our plans and efforts are Christian in so far as they move in line with the progress of the kingdom. The men of good will are called to express their faith, their devotion, their love in all the relations of life, and to build these into the structure of the social order. The following principles suggest the things that now demand emphasis:

(1) The conservation of child life by insuring each child adequate food, pure air, wholesome housing, and careful supervision of health and morals.

(2) The necessity of insuring every family adequate housing at reasonable rates, encouraging home-owning by securing permanence of employment, maintaining a good building and housing code, providing speedy transit service at reasonable rates, and ending the speculative owning of land around towns and cities.

(3) The warfare against alcoholism and venereal disease by strict legislation, by scientific and moral instruction, by providing adequate life interest, social centers, and saloon substitutes.

(4) Every community to have a comprehensive recreation program, providing playgrounds and

parks accessible to the people with careful supervision of all places of amusement.

(5) Property, skill, and life being a social stewardship and having social obligations, are to be held to account and used for common welfare.

(6) The creation of peacetime morale by peacetime methods, that shall unify the people, coordinate the forces of the nation, develop and maintain a national discipline, increase national vitality, and promote health, require every person to contribute his share of social service, and seek to train every person for effective and useful life.

(7) The creation of a united people with American ideals by instruction in principles of democracy and a wise policy of Americanization.

(8) The establishment of such a system of taxation as will equalize burdens, provide adequate funds for social progress, and return to the community values created by the community.

(9) The realization of a positive democracy by reinterpreting its meaning, by emphasizing its obligations, and establishing the democratic principle in political, social and industrial life.

(10) Increasing the food supply and insuring a more satisfactory country life by encouraging education and scientific agriculture, stimulating co-operative marketing of products, providing adequate means of transportation, with public grain-elevators, cold-storage plants, and abattoirs.

3. *Industrial*

It is evident to all that there must be some thoroughgoing changes in the industrial order. The principle of democracy must find interpretation and realization in industrial relations. Some way must be found whereby all parties in industry can be associated as partners in the enterprise. Some organization of industry must be created which shall make for confidence and good will. And some policies must be established that shall secure a more just and equitable distribution of the proceeds of industry. The following are the principles which need interpretation and emphasis:

(1) The conviction that industry is a social ser-

vice existing for the sake of life, and the insistence that in its processes, methods, and results it shall serve human well-being—"He profits most who serves best."

(2) The recognition that all parties in industry—investors, managers, workers, the community—are partners, and the cultivation of an attitude of confidence, cooperation, justice, good will on the part of all.

(3) The creation of a constitution or charter for industry, defining the terms and conditions of labor, providing adequate and speedy redress of wrong on a basis of social justice, insuring representation by all parties, and providing for a progressive participation by all in knowledge of the enterprise, a voice in its direction, and an equitable share in its proceeds.

(4) As steps toward full industrial democracy; provision for organization of the workers, with collective bargaining; the creation by industry and society together of adequate means for investigation, conciliation, and arbitration in all disputes.

(5) The recognition that industry is an interest within society and serves society; it must, therefore, be subject to supervision by the State and be co-ordinated with all other factors of society.

(6) Such supervision and direction by society of the factors and agencies of production, transportation, and communication as will safeguard the interests of all the people and prevent monopoly and exploitation by the few.

(7) A comprehensive national survey of such national resources as coal, iron, oil, water, timber, soil, with an adequate national supervision to prevent their exploitation and waste, and to conserve the benefits for all the people and for other generations.

(8) Full provision by the State for vocational training as a vital part of general education, designed to make every person an effective worker, and giving scope to the creative impulse in industry.

(9) The provision of adequate measures of social insurance against unemployment, sickness, disability, and old age.

(10) The determination of a national minimum provision for a living income, forbidding the industrial employment of children, safeguarding the health of women, affording security against destitution to every member of society, and insuring one day of rest in seven. . . .

8. SOCIAL UNREST

STATEMENT ADOPTED BY THE GENERAL ASSEMBLY OF THE PRESBYTERIAN CHURCH IN CANADA, JUNE 12, 1919

The General Assembly recognizes that the prevailing unrest is a sign of the vital effort of the nation to adjust itself to new and changing conditions. It also recognizes that this unrest is a belated protest against injustices that have been tolerated in our social system—the alienation of our natural resources, the tying up of land for the unearned increment in value, profiteering, especially during the war, the public indifference toward the conditions in which many of our people live and toward the wrongs they suffer—and calls earnestly for extensive reforms of the abuses complained of, by parliamentary action.

The General Assembly draws attention to the fact that selfish and vulgar parade of wealth at a time when all our resources are required to meet the needs of the world is one of the chief causes of discontent, and calls on our people for the self-sacrifice and earnest service that was shown by all classes during the war.

The General Assembly draws the church's attention to this truth—that service to the point of sacrifice was the ruling principle of the life of Jesus Christ, and that He requires His followers similarly to invest their lives in the service of their fellows. This principle has received new emphasis in the war, and must now be applied to every department of our social life.

Industry, which includes both Capital and Labor, exists primarily for service. In order to serve it must pay, but the object of its existence is service. All parties in industry have their obligations to meet, as well as their rights to

secure, and the emphasis of the hour should be on the service rather than on its reward.

The Assembly desires to emphasize the truth that the interests of Capital and Labor are fundamentally harmonious, and therefore that any antagonism between them, instead of arising from the nature of things, indicates that something is wrong on the one side or the other, or, perhaps, on both.

The General Assembly would therefore remind both Capital and Labor that their first obligation is jointly to *serve the people* as a whole, and to give them the best service possible. Any attempt to lower the grade of the service rendered, or to take advantage of the public need, or in any other way to make gain their first consideration, forfeits the public confidence on which their standing in the community depends.

The General Assembly would remind the management of our industries of their obligation to promote in every way open to them the welfare and the interests of those who serve with them. The Assembly warmly commends movements now afoot in many of our industries toward the following ends:

Toward giving the workers a voice in determining the conditions under which their work is to be done, and a proper share in the control of industry;

Toward giving the workers an equitable share in the wealth jointly produced;

Toward cooperating with the State and with the workers themselves in providing insurance against unemployment, accident and illness, and in providing pensions for old age and widowed mothers;

Toward securing for workers such hours of labor as will afford leisure for self-improvement and for service to their families and the community;

Toward providing in every office and factory those comforts and conveniences that will safeguard the health and brighten the lives of employees while at their work.

In the interests of efficiency, as well as of industrial peace, the Assembly would urge that such efforts be continued and extended.

The General Assembly affirms the sacredness of human personality, and would point out that such conditions of work must be secured as will afford to each worker the opportunity of the highest personal development.

In view of the tenseness of the present situation and of the perplexities that face men in every branch of industry, the General Assembly urges all parties to be conciliatory in spirit as they approach their problems, and suggests that the representatives of Capital and Labor confer carefully about all outstanding questions, in order that strife, with its attendant losses, may be averted at a time when the situation can be saved only by mutual good will and production to the full measure of our capacity.

The General Assembly sympathizes profoundly with the efforts of organized Labor to secure conditions for a more abundant life for the great mass of our people, and is anxious to cooperate with all interested bodies to that end. At the same time the Assembly would point out that organized Labor is now and must continue to be only a part of the world's workers, and that the success of their cause depends on their winning the sympathy and confidence of the people, as a whole. The Assembly holds strongly that the following measures are necessary to this end:

Organized Capital and Labor should stand for each man rendering the fullest service of which he is capable.

Organized Capital and Labor should maintain the inviolability of agreements, both in spirit and in letter. Good faith is the foundation of all social stability, and when the representatives of Capital and Labor enter into agreements on the collective basis for which both parties contend such covenants should be observed.

The General Assembly affirms its conviction that the right of the workers to organize is fundamental in the present state of society, and that the right of the members of each craft to deal through their chosen representatives

with the management of the industries in which they are working should be recognized at once by their employers and by the State.

In view of the fact that the rights of the entire community are imperiled by general sympathetic combinations, whether of Capital or workers, the General Assembly urges the Government at once to provide machinery for the adjustment of the differences and misunderstandings between employers and employed, and for the maintenance of the rights of all classes in the community.

The General Assembly commends the Government for the appointment of the Mathers Commission, and urges further investigation into the causes of the present unrest, and immediate action to remove them as far as they can be reached by the powers vested in Parliament, especially in preventing profiteering, and removing other artificial causes of the high cost of living.

The General Assembly would point out the danger in the present tendency to organize in groups and classes, each for the furtherance of its own interests. While such organization may be necessary to each class to protect itself against exploitation, still the spirit of faction and mutual suspicion can be avoided only by the different classes subordinating their particular aims in devotion to the common good. In the grave difficulties and dangers of the period of readjustment and reconstruction, the Assembly would call on all our people to unite in the service of the nation as a whole, and to establish firmly those principles of justice and brotherhood which alone can bring us enduring peace.

Above all else, the Assembly, without attempting to dogmatize at length in regard to economic details, would affirm its belief that the only permanent cure for the evils of our time, is the practical application of Christian principles to the whole conduct of life.

APPENDIX N

CANADIAN INDUSTRIAL DISPUTES INVESTIGATION ACT OF 1907.*

The Canadian Act of 1907 was, in considerable degree, a development and expansion of earlier legislation. In 1900 a conciliation act had provided for the creation of a Department of Labor, headed by a Minister of Labor, and for the institution under the Minister of a system of conciliation boards, modeled in general after the earlier English experiments. This measure, in practise remained inoperative so far as concerned the establishment of conciliation boards, due in large part to the lack of equipment and facilities of the new Department of Labor. The Department, however, did attempt mediation, with varying degrees of success, in industrial disputes and thus inaugurated a new policy, Dominion officials not having previously attempted mediation in industrial disputes.

In 1903 the *Railways Labor Disputes Act* was enacted. This statute recognized, to some extent, the principle of compulsory investigation. In case of a dispute between a railway company and its employees, and either party to the dispute asked that the dispute be referred to a board for adjustment, the Minister of Labor was authorized to establish such a board without requiring the assent of the other party to the dispute. No restraint of any kind, however, was placed upon the right of strike or lockout. This act had little direct effect, only one dispute being referred for adjustment under its provisions.

In 1906, the two earlier measures were consolidated as the *Conciliation and Labor Act*. In 1907, following a prolonged coal strike in the Province of Alberta, the Conciliation and Labor Act was practically superseded by the more

* Summary prepared by Bureau of Applied Economics, Washington, from sources referred to in the text.

drastic *Industrial Disputes Investigation Act*.^{*} This act incorporated the principle of compulsory investigation previously adopted in the *Railway Disputes Act* of 1903, and added the new principle that, pending such investigation, strikes and lockouts should be illegal.

Applicable Only to Mines and Public Utilities

The restrictive provisions of the act were made to apply only to disputes in mines and public utilities involving ten or more employees. Broadly speaking, therefore, the act covers all agencies of transportation and communication, gas, electric, water and power works, as well as coal and metal mining.

Other industries may avail themselves of the privileges of the act provided both parties to the dispute join in such request. This class of cases, however, is not particularly significant from the standpoint of the act, inasmuch as they are cases in which arbitration has already been agreed upon by the parties and the use of the machinery of the act is merely a convenience.

Partial Denial of the Right to Strike

The distinctive feature of the act is the denial of the right of strike or lockout in the industries covered until the matters in dispute have been investigated and reported upon by a board of conciliation and investigation. It is the duty of this board to seek to arrive at a settlement, failing which it is to make an impartial investigation and issue a public report of its findings. The act also stipulates that at least thirty days notice must be given of an intended change affecting conditions of employment with respect to wages or hours of labor.

The request for the services of a board must come from one of the parties to the dispute. Furthermore, the appli-

^{*} The full title is: An act to aid in the prevention and settlement of strikes and lockouts in mines and industries connected with public utilities (6-7 Edward VII Ch. 20). This act was amended in 1910 and 1918. The amendments were for the purpose of improving administrative details and none of them affected the basic principles of the act.

The full text of the act is published in the Report on Railway Strikes and Lockouts by the U. S. Board of Mediation and Conciliation, November 1, 1916. House Document No. 2117, 64th Congress, 2nd session.

cation for a board must be accompanied by a statutory declaration that, failing an adjustment of the dispute or a reference thereof by the Minister to a board of conciliation and investigation it is the belief of the applicant that a strike or lockout will result and that the necessary authority to declare such strike or lockout has been obtained. The ostensible purpose of this provision was to prevent a multiplicity of trivial cases.

Not Compulsory Arbitration

The act thus provides for compulsory investigation but does not provide for compulsory arbitration. It merely postpones the right to strike or lockout until there has been opportunity for a board to make an investigation and report. If both parties agree to accept the services of the board as final arbitrator, or if the findings of the board are acceptable to both parties, the dispute, of course, is at an end. If, however, the findings of the board are unsatisfactory to either or both parties, a strike or lockout then becomes legal.

The essential theory of the act is that an informed public opinion—informed, that is to say, by the investigation and report of what is presumed to be an impartial board—will bring such moral pressure to bear that neither party to a dispute will be willing to undergo the odium of rejecting the board's findings. To the end that the reports of all boards may be brought before the public as fully as possible, the act directs the Minister of Labor to send full copies of all findings to every newspaper which applies therefor, and authorizes him to distribute copies in such other ways as he may think most expedient to secure publicity. In addition, a copy of the report must be published in the Labor Gazette and be included in the Annual Report of the Department of Labor.

Composition of Boards

The act provides that the Minister of Labor, within fifteen days of the date at which he receives an application for the appointment of a board, shall establish such board if he is satisfied that the provisions of the act apply. The board

appointed consists of three members, one recommended by each of the parties to the dispute, and a chairman to be selected by the members so chosen. In case of failure of either party to designate its representative, or of the two party appointees to agree upon a chairman, the Minister of Labor, after a prescribed time, may make the necessary appointments. The board is given all necessary powers for taking evidence, summoning witnesses, etc. Proceedings may be held in public or in private as may seem most expedient to the board. It was the intention that procedure under the act should be as simple as possible, and in practice, the effort has been to keep all procedure free from legal formalism.

The Interpretation of the Recommendations of a Board

The act as originally adopted did not provide for the continuance of a board as an interpreting agency in case of controversy as to the application of the board's recommendations. In other words, a board passed out of existence as soon as its report was made. This was generally recognized as a defect and was corrected in 1918 by an amendment which provided for the reconvening of a board for the purpose of considering questions as to the meaning or application of its recommendation or of a settlement agreement drawn up by it. Further flexibility of procedure was secured by an amendment of the same date authorizing the Minister to submit to the board other matters than those originally referred to it but which are found to be involved in or incidental to the submission.

By Whom the Act May Be Invoked

Under the original act a board of conciliation could be appointed only upon the request of one or both of the parties to a dispute. If neither party cared to make such a request the Minister of Labor could not appoint such a board on his own initiative. An amendment of 1918, however, authorizes the Minister of Labor to establish a board on the application of any municipality interested or on the motion of the Minister himself, even though neither party to the dispute calls upon him to do so.

Punitive Features of the Act

Heavy penalties are attached to the violation of the provisions of the act by either party to a dispute, and a penalty extends to any one who aids or encourages an employer or employee to act contrary to the provisions of the statute. The act, however, does not appear to contemplate that the government shall institute proceedings in case its provisions are believed to be violated. The enforcement of the penalty clauses, in other words, is left to the initiative of the aggrieved parties. Inasmuch, as the restrictive clauses of the act constitute one of its most distinctive features, and as restriction implies some penalty for violation, the method of enforcement becomes of serious importance. On this point Sir George Askwith in his report on the act makes the following comment:*

The government has taken the line that the infliction of penalties should be left to the parties, as they would be in a case of trespass, and that it would be difficult for the government to treat a lockout or a strike as if it were a crime. On the other hand the penalties can seldom be exacted by the parties with any advantage, as, if the proposals are accepted, a settlement is reached, and it is undesirable to raise bad feeling after a settlement. In addition it is almost useless for employers to demand money from their own men, who may have been asking for higher wages on the ground that they have not enough money, or who have to be employed by the very persons who would be endeavoring to exact penalties from them. Attempts to penalize officials of the Union would be likely to have, and in fact have had, the effect of causing unnecessary labor resentment against the act, and of adding to the popularity of the officials upon whom punishment is proposed to be inflicted, without acting in any sense as a deterrent for the future.

War Time Additions to the Act

Under the pressure of war certain important additions to the act were made. Inasmuch, however, as these additions

* Report to the Board of Trade (of Great Britain) on the Industrial Disputes Investigation Act of Canada, 1907, by Sir George Askwith, London, 1912.

operated solely during the period of hostilities they have now little more than a historical interest. The first important addition was made by an Order in Council of March, 1916, which extended the provisions of the act to all disputes in which the manufacture of munitions was involved. Again in July, 1918, there was issued an Order in Council which embodied a formal declaration of certain principles and policies (modeled after the principles of the U. S. National War Labor Board) to govern the relations between employers and employees engaged in war production. This order made provision for the later creation of boards of appeal from the findings of the boards of conciliation, the decision of the boards of appeal to be final. This system of appellate boards was discontinued by an Order in Council of May, 1919. Finally, in October, 1918, an Order in Council prohibited, during the period of the war, all strikes and lockouts in industries affected by the Industrial Disputes Investigation Act. This order, however, was repealed immediately after the armistice, November 19, 1918.

Operation of the Act

Official statements of proceedings under the act show that from the enactment of the law in March, 1907, down to March 31, 1919, there had been 374 disputes referred under the act, of which 350 had been averted or ended. The following table shows the record by fiscal years:

(From annual reports of Registrar of Boards of Conciliation and Investigation, and Canadian Labor Gazette for August, 1919.)

Fiscal year Ending Mar. 31	Number of Applica- tions	No. of Dis- putes not Averted	Fiscal year Ending Mar. 31	Number of Applica- tions	No. of Dis- putes not Averted
1908	34	1	1914	16	0
1909	21	1	1915	16	1
1910	27	4	1916	14	1
1911	24	4	1917	36	1
1912	18	4	1918	48	1
1913	21	4	1919	99	2 *
				374	24

* Not including two strikes occurring after close of fiscal year.

This table indicates that the great majority of disputes referred under the act have been peaceably adjusted. As this point is generally acknowledged, no particular interest attaches to a further analysis of the above figures. The criticisms made have been directed at entirely different aspects of the act.

APPENDIX O*

CONCILIATION AND ARBITRATION SYSTEMS OF AUSTRALIA

(From the Official Year Book of the Commonwealth of Australia, Nov. 9, 1916)

Two systems, based upon different principles, exist in Australia for the regulation of wages and general terms of contracts of employment. A "Wages Board" system exists in Victoria and Tasmania, and an Industrial Arbitration Court in Western Australia. In the industrial legislation of New South Wales, Queensland, and South Australia both systems are embodied, Industrial or Wages Boards, as well as Industrial Courts, being instituted. In Victoria, Wages Board's decisions may be reviewed by the Court of Industrial Appeals. In New South Wales, Industrial Arbitration Acts of 1901 and 1905 instituted an Arbitration Court. This court expired on 30th June, 1908, having delivered its last judgment on the previous day. Wages Boards were substituted under the Industrial Disputes Act, 1908, and subsequent years; while the Act of 1912 introduced the mixed system. There is also the Arbitration Court of the Commonwealth, which has power, however, to deal only with matters extending beyond the limits of a single State.

The chief aims of the Wages Board system are to regulate hours, wages, and conditions of labor and employment, by the determination of a Board usually brought into existence for any specified industry or group of industries by petition or application. Under the Industrial Arbitration Court system an industry does not technically come under review until a dispute has actually arisen. Most of the Acts, however, have given the President of the Court power to summon a compulsory conference. In Victoria,

* Prepared by the Bureau of Applied Economics, Washington.

where the Wages Board system is in force, there is no provision against strikes, but in Tasmania, where that system has also been adopted, penalties are provided for a lock-out or strike on account of any matter in respect of which a Board has made a determination.

The Arbitration Court System

The following is a general account of the main features of the Compulsory Arbitration laws of Australia. A few important divergencies between the Acts are noted.

The Acts in force in the States at the close of the year 1914 are set out on page 947 of the Official Year Book of the Commonwealth of Australia for 1916. In addition, the Commonwealth Statute Book contains the Commonwealth Conciliation and Arbitration Acts of 1904-14, and the Arbitration (Public Service) Act 1911.

Significance of Acts. In Victoria in 1891, and in New South Wales in 1892, Acts were passed providing for the appointment of Boards of Conciliation, to which application might be made voluntarily by the contending parties. The awards of the Boards had not any binding force. Boards were applied for on but few occasions, their lack of power to enforce awards rendering them useless for the settlement of disputes.

The first Australian Act whereby one party could be summoned before, and presumably made subject, as in proceedings of an ordinary court of law, to the order of a court, was the South Australian Act of 1894. Its principles have been largely followed in other States, but it proved abortive in operation in its own State, and in many respects was superseded by the Wages Board System. Western Australia passed an Act in 1900, repealed and reenacted with amendments in 1902 and 1909, the whole being consolidated in the Industrial Arbitration Act of 1912. The Court system was adopted in New South Wales in 1901, and various changes having been subsequently introduced, a consolidation was made in 1912. Queensland introduced the system under the Industrial Peace Act of 1912. The Commonwealth principal Act, passed in 1904, applies only to industrial disputes extending beyond the limits of a single

State. The Arbitration (Public Service) Act, as the title indicates, applies to public servants in all States.

Industrial Unions. The Arbitration Act, framed to encourage a system of collective bargaining, to facilitate applications to the court, and to assure to the worker such benefits as may be derived from organization, virtually creates the Industrial Union. This, except in New South Wales and Western Australia, has been quite distinct from the trade-union; it is not a voluntary association, but rather an organization necessary for the administration of the law. The New South Wales Act of 1901 required all trade associations to register as "industrial unions," prescribing the separation of industrial and benefit funds, and enforcing strict and proper management, the industrial funds being available in payment of penalties incurred for breaches of the Arbitration Act. Industrial unions (or "organizations" as they are styled in the Commonwealth Act) may be formed by employers or employees. They must be registered, and must file annual returns of membership and funds. Before unions of employers are registered, there must be in their employment a minimum number of employees. In New South Wales and Western Australia the minimum is 50; under the Commonwealth Act, 100. Unions of employees must, in Western Australia, have a membership of 15; in South Australia, 20; and by the Commonwealth Act a membership of 100 is required. The union rules must contain provisions for the direction of business, and in particular, for regulating the method of making applications or agreements authorized by the Acts. In Western Australia, rules must be inserted prohibiting the election to the union of men who are not employers or workers in the trade, and the use of union funds for the support of strikes and lockouts; a rule must also be inserted requiring unions to make use of the Act.

Industrial Agreements. Employers and employees may settle disputes and conditions of labor by industrial agreements, which are registered and have the force of awards. They are enforceable against the parties and such other organizations and persons as signify their intention to be bound by an agreement.

Powers of Court. Failing agreement, disputes are settled by reference to the court. In the Commonwealth this consists of a Judge of the High Court. The court may (and on the application of an original party to the dispute must) appoint two assessors at any stage of the dispute. In the States the president of the tribunal (usually a Judge of the Supreme Court) is assisted by members (the number varying under the various Acts) chosen by and appointed to represent the employers and employees respectively.

Cases are brought before the court either by employers or employees. The consent of a majority of a union voting at a specially summoned meeting is necessary to the institution of a case; the Commonwealth Act requires the certificate of the registrar that it is a proper case for consideration.

The powers of the court are both numerous and varied; it hears and makes awards upon all matters concerning employers and employees. The breadth of its jurisdiction may be gathered from the Commonwealth definition of "industrial matters," viz., "all matters relating to work, pay, wages, reward, hours, privileges, rights or duties of employers or employees, or the mode, terms, and conditions of employment or non-employment; and in particular, but without limiting the general scope of this definition, the term includes all matters pertaining to the relations of employers and employees, and the employment, preferential employment, dismissal or non-employment of any particular persons, or of persons of any particular sex or age, or being or not being members of any organization, association, or body; and any claim arising under an industrial agreement; and all questions of what is fair and right in relation to any industrial matter having regard to the interests of persons immediately concerned, and of society as a whole."

The object of the court is to endeavor to prevent or settle industrial disputes; and when they have occurred to reconcile the parties. The court may fix and enforce penalties for breaches of awards, restrain contraventions of the Acts, and exercise all the usual powers of a court of law.

The Commonwealth Court may prescribe a minimum rate of wage; it may also, as regards employment, direct that

preference of employment or service shall be given to members of unions. An opportunity is offered for objection to a preference order, and the court must be satisfied that preference is desired by a majority of the persons affected by the award who have interests in common with the applicants.

In industrial disputes the Commonwealth Court is, if possible, to bring about a settlement by means of an amicable agreement, and such agreement may be made an award. In order to prevent an industrial dispute the president of the Commonwealth Arbitration Court may convene a compulsory conference under his own presidency. Attendance of persons summoned to attend is compulsory. Provision is made, whereby, if no settlement is reached at the conference, the president may refer the matter to the court and then arbitrate on it.

There are four ways in which a matter may be brought before the court:

- (a) By the registrar certifying that it is a dispute proper to be dealt with by the court in the public interest.
- (b) By the parties, or one of them, submitting the dispute to the court by plaint in the prescribed manner.
- (c) By a State Industrial Authority, or the Governor-in-Council of a State in which there is no such authority, requesting the court to adjudicate.
- (d) By the president referring to the court a dispute as to which he has held a conference without an agreement being reached.

All parties represented are bound by the award, and also all parties within the ambit of a common rule. The court possesses full powers for enforcement of awards.

In New South Wales and Western Australia, railway and tramway employees, and also the employees of certain other public bodies are brought under the respective Acts; the section of the Commonwealth Act giving the Commonwealth Court power over State employees has been declared unconstitutional by the High Court.

Repression of Strikes and Lockouts. The first instance of a strike on a large scale in Australia occurred in 1890 and 1891, when the industrial upheavals assumed far-reaching proportions. As a result of differences between pastoralists and shearers, the labor-unions called out the maritime workers. Industry was paralyzed by the cessation of the sea-borne coal trade. Communications were held up and commercial activity suspended. The chief results of the strikes were indirect. It was seen that peaceful methods of adjusting disputes were more conducive to the welfare of the community generally, than the methods of strike and lockout. The unions therefore turned to legislation as an effectual means of improving labor conditions. It was hoped that open hostility to the economic system might be prevented by State regulation. A general desire was shown for recognition of conciliation and arbitration, voluntary where possible, but compulsory through national tribunals and under legal authority, where necessary.

Accordingly, industrial legislation aims at preventing strikes and lockouts in relation to industrial disputes, other means of settlement being provided. Such is the declared object of the Commonwealth Acts. It is decreed that no person or organization shall, on account of any industrial dispute, do anything in the nature of a strike or lockout, or continue any strike or lockout, under a penalty of £1000.

Strikes, however, have not altogether ceased, even in those States where legislation, by stringent enactments, forbids them. It has been noted that strikes of late have occurred chiefly amongst coal miners and certain unions representing unskilled laborers. The prohibiting clauses have not always been enforced by the Executive. But in several instances indictment has followed attempts to bring about or to prolong a strike, and fines and imprisonment have been awarded. A decision of the Arbitration Court, ordering the Newcastle coal trimmers to return to work, was upset by the Supreme Court of New South Wales, on the ground that the Arbitration Court had no power to make men work if they did not wish to do so.

Miscellaneous. Protection is afforded to officers and members of unions against dismissal merely on account of

such officership or membership, or on account of their being entitled to the benefit of an award.

It has been settled by the High Court that an Arbitration Court can not direct—

- (a) That non-unionists seeking employment shall, as a condition of obtaining it, agree to join a union within a specified time after engagements;
- (b) That an employer requiring labor shall, *ceteris paribus*, notify secretary of the employees' union of the labor required.

MOVEMENT TOWARDS UNIFORMITY

The wide difference between the development in the several States of the Commonwealth of the regulation by State institutions of the remuneration and conditions of the workers has given rise to a desire on the part of the Commonwealth Government to secure uniformity throughout Australia by any suitable and constitutional action on the part of the Commonwealth. The provisions of States' wages laws vary considerably. In New South Wales, Victoria, and Western Australia, considerable experience has been gained of their working. The system is newer in South Australia, Queensland, and Tasmania. The desirability of uniformity has, as already mentioned, been recognized by the New South Wales Arbitration Court, which refused to the Bootmakers' Union an award which would increase the wages of its members to amounts exceeding those paid in Victoria in the same trade, the express ground of the refusal being that New South Wales manufacturers would be handicapped by the payment of a higher rate of wage than that prevailing in Victoria.

Constitution Alteration Proposals. Two proposed laws for the alteration of the constitutional powers of the Commonwealth in regard to industries and businesses were submitted to the people for acceptance or rejection on the 26th April, 1911. The first law proposed to amend section 51 of the Constitution Act so as to give the Commonwealth Government increased powers to deal with (a) trade and commerce, (b) corporations, (c) industrial matters, and

(d) trusts and monopolies. The second law proposed to insert after section 51 of the Constitution Act, as section empowering the Commonwealth Government to make laws with respect to monopolies. Neither of the proposals was approved by the people. At the general elections, held on 31st May, 1913, these and other matters were again submitted by referendum and again rejected.

The "New Protection." The opinion has been expressed that a manufacturer who benefits by the Commonwealth protective tariff should charge a reasonable price for the goods which he manufactures, and should institute a fair and reasonable rate of wages and conditions of labor for his workmen.

The above view is known as the "New Protection," a phrase which, though novel, is already firmly established in Australian economic discussions. The outcome has been the enactment of new laws, designed for the benefit of the workers, and for controlling monopolies and trusts which would otherwise exploit the necessities of life.

By the Customs Tariff 1906, increased duties were imposed upon certain classes of agricultural machinery, notably the "stripper-harvester," a machine invented in Australia, which has to a great extent, replaced the "reaper and binder and threshing machine" in the harvesting of wheat. By the same Act it was enacted that the machines scheduled should not be sold at a higher cash price than was thereby fixed, and that if the price should be exceeded, the Commonwealth Executive should have power, by reducing the Customs duties imposed by the Act, to withdraw the tariff protection.

By the Excise Tariff Act 1906 (No. 16 of 1906), an excise of one-half the duty payable upon imported agricultural machinery was imposed upon similar machinery manufactured in Australia. But it was provided that the latter should be exempt from excise if the manufacturer thereof complied with the following condition, namely that the goods be manufactured under conditions as to the remuneration of labor, which—

- (a) Are declared by resolution of both Houses of the Commonwealth Parliament to be fair and reasonable;

- (b) Are in accordance with the terms of an industrial award under the Commonwealth Conciliation and Arbitration Act 1904;
- (c) Are in accordance with the terms of an industrial agreement filed under the last-mentioned Act;
- (d) Are, on an application made for the purpose to the President of the Court, declared to be fair and reasonable by him or by a judge of a State Court or a State industrial authority to whom he may refer the matter.

By the Excise Tariff Act 1906 (No. 20 of 1906), excise duties are imposed in respect of spirits, and it is provided that if any distiller (i) does not, after the Act has been passed a year, pay his employees a fair and reasonable rate of wages per week of forty-eight hours or (ii) employs more than a due proportion of boys to men engaged in the industry, the Executive may on the advice of Parliament impose an additional duty of one shilling per gallon on spirits distilled by that distiller.

Exemptions have been claimed by the manufacturers of agricultural machinery in South Australia, New South Wales, Victoria, and Tasmania. These were granted in the two first-mentioned States in consequence of an agreement entered into between the employers and employees. In Victoria, "This whole controversial problem with its grave social and economic bearings" (to quote the words of the President of the Court) was discussed in a lengthy case upon the application for exemption by Victorian manufacturers, now widely known as the "Harvester Case," and in the report of that case may be found the legal interpretation of the Acts under consideration. The exemptions claimed were refused, and the Court after discussing the meanings of the words "fair and reasonable," defined them by laying down what is considered to be a scale of fair and reasonable wages.

The High Court has pronounced that the legislation under these Excise Acts is unconstitutional as being an extension of Federal action beyond the powers granted, and usurpation of the ground reserved to the States. It may be noted that the rejected measures were enacted with the consent

of all parties in Parliament, having been placed upon the Statute Book whilst the Liberal party was in power, the labor representatives strongly supporting the proposals.

(EDITORIAL NOTE: The above account of compulsory arbitration in Australia from the Commonwealth Year Book of 1916, is applicable as of that date. Since then certain modifying laws have been enacted, the most important of which has been in New South Wales. A brief description of the recent changes in the arbitration laws of that State is given in the following extract from the Monthly Labor Review of the U. S. Bureau of Labor Statistics of July, 1918.)

RECENT CHANGES IN THE INDUSTRIAL ARBITRATION ACT OF NEW SOUTH WALES

The widely known Industrial Arbitration Act of New South Wales, enacted in its present form in 1912, has received considerable amendments, notably by an act of the current year (No. 16, Acts of 1918, March 22). Amendments of less import were made by an act of 1916 (No. 81, Acts of 1916, Dec. 20). The act of 1916 made no essential change in the principles of the original act.

The amendment of 1918 is much more far-reaching, beginning with some modifications of definition and procedure, but extending to the creation of new agencies for the consideration and management of industrial problems. Despite the prohibition of strikes and lockouts contained in the original act, the labor disturbances of the year 1917 in New South Wales resulted in a considerable number of strikes, engaged in or encouraged by many of the most important unions of the States, resulting in the cancellation of the registration of the unions involved. One of the provisions of the present act is to authorize the reinstatement of these unions within six months after the passing of the act, the minister for labor and industry being authorized to take this step with the concurrence of the senior judge of the court by which the cancellation was made. An important change in this connection is a definition of the classes of strikes that are to be henceforth determined to be illegal, the original law having declared all strikes illegal,

regardless of their nature or the class of industries affected. . . .

Somewhat restrictive is the provision that the industrial court shall limit its activities as far as is feasible to the determination of wages and hours only, "leaving all other matters to shop committees, conciliation committees, industrial councils, or voluntary committees formed for the purpose of adjusting the industrial relationship of employer and employee." Employees in rural industries are entitled to living wages fixed by the newly created board of trade, but are not otherwise subject to regulation by the act.

Strikes declared illegal are those by employees of the crown or any public agency, including those of the railway commissioners, the harbor boards, boards charged with the care of water supply, sewerage, and irrigation, and of the fire department and the Metropolitan Meat Industry Board; also strikes by the employees in any industry in which employment is at the time wholly or partially regulated by an award or an industrial agreement; but after an award has been in operation as long as twelve months, it may be abrogated by a majority vote of the members of the union affected voting by secret ballot, not less than two-thirds of the members taking part; and lastly, a strike is illegal if commenced prior to the expiration of fourteen days after notice in writing of the intention to strike, or complaining of conditions likely to cause a strike. Unions engaging in illegal strikes may be penalized in an amount not exceeding £500 (\$2,433). The Minister is authorized at any time during a strike, or when he thinks a strike is contemplated, to prescribe the taking of a secret ballot by the employees affected, for the purpose of discovering their attitude on the matter of striking, or continuing a strike. Individuals aiding or instigating illegal strikes or interfering with the taking of a ballot or otherwise acting contrary to the spirit and purpose of the act may be fined no more than £50 (\$243), or imprisoned not more than six months. Proprietors and publishers of newspapers advising illegal strikes may be fined not more than £100 (\$487). Picketing and blacklisting are also prohibited in connection with illegal strikes.

Awards and determination made and collective agreements
filed under various Arbitration and Wage Boards
Acts in Australia, 1914-1916

(Official year book of the Commonwealth of Australia,
1914-1916)

Year	Awards and Determinations	Agreements	Total
1914	208	130	338
1915	274	243	517
1916	426	131	557

NOTE: In 1916 there were approximately 569,000 wage-earners whose working conditions were determined by the above awards and agreements. This number comprised forty-seven per cent of all gainfully employed persons in Australia, but as this latter included employers and small shop keepers as well as employees, the proportion of wage-earners governed by awards and agreements becomes even greater. That is to say, probably considerably more than half of all the workers in Australia have their wages and working conditions fixed by a legally constituted system of collective bargaining.

APPENDIX P

CONCILIATION AND ARBITRATION SYSTEM OF NEW ZEALAND

(From the New Zealand Official Year Book, 1914)

The most important of the labor laws, both as affecting the employment of labor and from the economic point of view is the Industrial Conciliation and Arbitration Act, which was first passed in 1894; since that date it has been amended from time to time as new difficulties have arisen. The Act, comprising one of the statutes consolidated in 1908, now stands as the Industrial Conciliation and Arbitration Act, 1908, with amending Acts of 1908, 1910, 1911, and 1913, to be read with the principal Act. The main provisions are now as follows:

Industrial Districts

Under the regulations to the Act, the Dominion of New Zealand is divided into eight industrial districts.

Registration of Industrial Unions and Associations

Any society consisting of not fewer than three persons in the case of employers or fifteen in the case of workers in any specified industry or industries in an industrial district may be registered as an "Industrial Union" on compliance with the requirements for registration. Any incorporated company may also be registered as an Industrial Union of employers. Any two or more industrial unions of either employers or workers in any industries may form an "Industrial Association," and register the same under the Act. Industrial Associations are usually formed for the whole or greater part of New Zealand, comprising the unions registered in the various industrial districts.

Such registration enables any union or association—(1)

To enter into and file an industrial agreement specifying the conditions of employment agreed upon. This agreement (which is binding only on the parties to it), altho required by the Act to be limited to a period of not more than three years, remains in force until superseded by another agreement or an award of the Court of Arbitration, except where the registration of the union of workers concerned is cancelled. (2) In the event of failure to arrive at an industrial agreement, to bring an industrial dispute before a Council of Conciliation set up for the purpose, and, if necessary, before the Court of Arbitration. It should be noted that while employers may individually be cited by a workers' union or association, workers can be cited by employers only when such workers are voluntarily registered under the Act as an Industrial Union or association of workers. The constitution of Councils of Conciliation and of the Court of Arbitration is explained later on in this section.

A Council of Conciliation has no compulsory powers; it merely endeavors to bring about a settlement. If a settlement is affected it may be filed as an "Industrial Agreement." In most cases, however, it has been found that on arriving at a settlement through the Council of Conciliation, the parties prefer to have the agreement made into an award of the Court of Arbitration, and in such cases the dispute is formally passed on to the Court for that purpose. If the members of the Council agree upon a unanimous recommendation, but do not get an "Industrial Agreement" signed by all the parties, the recommendation is now (*vide* the 1911 and 1913 amendments) filed for one month, and if no party disagrees with the same within that time the recommendation becomes automatically binding on the parties. If a complete settlement is not arrived at, the Council is required by the Act to refer the dispute to the Court of Arbitration, which, after hearing the parties, may make an award, and any items of the dispute that have been agreed upon before the Council may be embodied by the Court into its award without any further reference. Such an award is, like an industrial agreement, binding on all the parties cited, and is also binding on any other employers

subsequently commencing business in the same trade in the district. Unless the district is further limited by the Court in the award, the award applies to the industrial district in which it is made. Pending the sitting of the Court of Arbitration to hear the dispute, it is the duty of the Council to endeavor to bring about some provisional agreement. Awards are also required by the Act to be limited to a period of not more than three years, but, nevertheless, remain in force until superseded either by another award or by a subsequent agreement, except where the registration of the union of workers has been cancelled.

Under the Act in force from 1901 to 1908 power was given to any of the parties to a dispute, when once filed for hearing by the Board of Conciliation appointed under that Act to hear all disputes in the district, to refer the same to the Court of Arbitration direct without waiting for a hearing by the Board. This provision was repealed in 1908, when all disputes were again required to be heard by the Conciliation tribunal before being referred to the Court of Arbitration. In 1911, however, a clause was inserted to enable an Industrial Association, party to a dispute extending over more than one industrial district (and therefore beyond the jurisdiction of a Conciliation Council), to apply direct to the Court of Arbitration for the hearing of the dispute.

Registration also enables a union or association to cite before a Magistrate any party committing a breach of an award or industrial agreement. Parties generally prefer, however, to hand over any such cases to the Labor Department to cite or otherwise dispose of as it thinks fit.

Under the Act individual employers have the same powers as unions or associations of citing other parties, altho they seldom exercise those powers.

Constitution of Conciliation Councils

The Act provides for the appointment of not more than four Conciliation Commissioners to hold office for three years; three have been appointed and each of the eight industrial districts is placed under the jurisdiction of one of them.

When a dispute arises, the union, association, or employer desiring to have the same heard makes application to the Commissioner in the form provided, stating the nature of the dispute, and the names of the respondents, and recommending, at its option, one, two, or three assessors to act as representatives on the Council to be set up. On receipt of the application, the Commissioner notifies the respondents and calls upon them to similarly recommend an equal number of assessors to represent them. The assessors must, except in special cases at the discretion of the Commissioner, have been engaged in the industry. Councils of Conciliation are thus set up for each dispute as it arises.

Constitution of the Court of Arbitration

The Court of Arbitration is appointed for the whole of New Zealand, and consists of three members, one of whom, the permanent Judge of the Court, possesses the same powers, privileges, etc., as a Judge of the Supreme Court. Of the other members, one is nominated by the various unions of employers throughout the Dominion, and one by the union of workers, and their appointments are determined by a majority of the unions on each side respectively. Like the members of the former Board of Conciliation they hold office for three years, and are eligible for reappointment. The Judge and one member constitute a quorum. All decisions of the Court are arrived at by the judgment of a majority of the members present at the sitting, or, if those members present are equally divided in opinion, the decision of the Judge is final. The Court has full power to deal with questions brought before it, and except in the case of matters which may be ruled to be beyond the scope of the Act, there is no appeal from its decision.

Strikes and Lockouts

Except in special industries a strike or lockout is illegal only if the parties concerned are bound by an award or agreement. If a strike takes place in any industry, each worker who is a party to the strike, and who is bound by an award or agreement, is liable to a penalty not exceed-

ing £10, and in case of a lockout each offending employer is liable to a penalty not exceeding £500. For inciting, instigating, aiding, or abetting an unlawful strike or lockout, or its continuance, a worker is liable to a penalty of £10, and a union, association (of employers or workers), or an employer, £200. A gift of money or other valuable thing for the benefit of a party or union engaged in a strike is deemed to be aiding or abetting. There are special provisions in the case of strikes and lockouts in industries affecting the supply of the necessities of life, such as water, milk, meat, coal, gas, or electricity, or in the working of any ferry, tramway, or railway used for the public carriage of goods or passengers. In these industries, whether affected by an award or agreement or not, fourteen days' notice must be given (within one month beforehand) of an intended strike or lockout, failing which each worker concerned is liable, on summary conviction, before a Magistrate, to a maximum fine of £25, and an employer to a maximum fine of £500. The maximum fine for inciting, aiding, or abetting in these cases is £25 for a worker and £500 for an employer or a union or association. Strikes and lockouts are also forbidden during the hearing of a dispute by a Council or the Court of Arbitration.

A strike is now defined as the act of any number of workers who are, or have been, in the employment, whether of the same employer or of different employers, in discontinuing that employment, whether wholly or partially, or in breaking their contract of service, or in refusing or failing after any such discontinuance to resume or return to their employment, the said discontinuance, breach, refusal, or failure being due to any combination, agreement, or common understanding, whether express or implicit, made or entered into by the said workers with intent to compel or induce any employer to agree to terms of employment, or comply with any demands made by workers, or with intent to cause loss or inconvenience to any such employer in the conduct of his business, or with intent to incite, aid, abet, instigate, or procure any other strike, or with intent to assist workers in the employment of any other employer to compel or induce the employer to agree to terms of em-

ployment, or comply with any demands made upon him by any workers. A similar definition is, *mutatis mutandis*, given to a lockout.

Breaches

Breaches of awards and industrial agreements are punishable as follows: A union, association, or employer by fine not exceeding £100, for each breach; a worker by fine not exceeding £5 for each breach. Penalties are recoverable at the suit of either an Inspector of Awards (by action in the Magistrates' Court or the Arbitration Court), or any party to the award or agreement (by action in a Magistrates' Court), but there is a right of appeal from the Magistrates' to the Arbitration Court. Actions for the recovery of penalties must be commenced within six months after the cause of action has arisen.

Labor Disputes Investigation Act, 1913

This Act provides machinery for the investigation of all disputes not coming within the scope of the Industrial Conciliation and Arbitration Act.

It provides for conferences of parties with a view to securing an amicable settlement, or in the alternative for the investigation of disputes by Labor Dispute Committees consisting of representatives of both parties to the dispute. Before a strike may lawfully take place a secret ballot of the workers affected is taken by the Registrar of Industrial Unions, and the result of the ballot is publicly notified. On the lapse of seven days after the publication of such result the workers are free to strike, whatever the result of the ballot may have been.

Similar provisions are made to apply in the case of lock-outs.

Agreements entered into by employers and workers to whom the Act applies may be filed in the Court of Arbitration and enforced as if they were industrial agreements under the Industrial Conciliation and Arbitration Act.

WORK OF THE ARBITRATION COURT OF NEW ZEALAND

Year ending March 31, 1913-1918

(New Zealand Official Year Book, 1913-1918)

	1913	1914	1915	1916	1917	1918
Industrial Agreements.	94	42	34	21	63	45
Recommendation of Conciliation Councils.	..	166	93	134	159	123
Awards of Arbitration Courts .....	..	93	71	102	168	114
Cases brought before Magistrates for En- forcement of Awards	436	363	330	285	194	288

APPENDIX Q

RECOMMENDATION OF SENATE COMMITTEE ON EDUCATION AND LABOR, WHICH INVESTIGATED THE STEEL STRIKE, NOVEMBER 3, 1919

(From Senate Report No. 289, 66th Congress, 1st Session, pp. 26-28)

While the committee was not under the resolution asked to suggest remedies, it feels it would fall short of its duty if it did not make some suggestions to Congress along remedial lines. Some of the suggestions are not directly involved in the steel strike, but they come to the minds of the committee from evidence that they have taken and conditions they have observed.

First. That a board or commission somewhat similar to the War Labor Board should be established. This board to have power of compulsory investigation; to have large power in mediation and conciliation and recommendations; not to the extent of compulsory arbitration, but before this board controversies could be heard, investigations made, and decisions rendered. That pending said investigation and decision no strike should be declared provided no employees are discharged for taking part in the controversy and provided further that all opportunity for the employer to take advantage of the delay has been removed; that the principle of collective bargaining and an eight-hour day should be considered by said board, and recommendations made to labor and industry in relation thereto; that the board should be in the nature of a Federal industrial commission, seeking at all times not only to settle pending disputes but to help bring about a more harmonious condition between employer and employee. A just decision of said board would be indorsed by the public, and public sentiment is powerful enough to enforce the findings of such a commission. There is good sense enough among the great body of the American

people to bring about an adjustment of these difficulties. The great body of the American people believe in a liberal industrial system, in living wages for men employed in industry; wages that will permit them to raise their families according to the standards of American life and to enjoy recreation from hard, grinding toil; but the American people have no patience and will have none with any leadership that seeks to accomplish its purpose by barbarous methods of freezing or starving the American people. They do not propose that a few men in this country shall have the power to bring about such conditions of affairs. On the other hand, they are as much opposed to an autocracy of capital. Capital must be reasonable likewise. The employer must recognize that there is a new spirit in the world; that labor is not content to be merely a hewer of wood and a drawer of water, and that labor is fighting for a status in industrial life, and it is not concerned merely with wages.

Why can not capital and labor cooperate and establish between themselves the doctrine of the square deal; cease to be suspicious of one another, join together and act together for the good of each other and for the well-being of the public at large? It is the hope of the world that military warfare has ceased. Have we not reason also to hope and insist that industrial warfare may cease? It can not without a spirit of mutual cooperation between capital and labor.

Second. That an Americanization bill be passed by the Congress which will provide for the effective education and Americanization of the illiterate foreigners and native illiterates in this country. A bill of this kind has already been reported out of this committee and your committee urges an early adoption of the same by Congress.

Third. It is observable in the strike districts that the men who own their homes are more contented and more interested in the affairs of the country. One real antidote for unrest in this country is home ownership. It is difficult to plant the seeds of revolution in the minds of those who own their own homes. The work of the steel companies in building homes has been most commendable. It is to be

hoped that such work will be enlarged and carried on by them. It would not be out of place to suggest that it would be most commendable for the steel companies to use some of their large profits in extending the work of home building. The question of aid and encouragement in the work of assisting townspeople of small means in securing their own homes in some such way as the farmer has been aided under the Federal farm loan act is worthy the serious consideration of Congress.

Fourth. There should be a change in our naturalization laws which will require the naturalization and some education of all foreigners, at least to the extent of speaking the American language; that they should acquire such knowledge within a period of five years after they arrive, with proper limitations upon further immigration, giving to those already here a certain period of time in which to become naturalized, and if this is not done then deportation should follow.

Fifth. An effective law should be passed dealing with anarchists, revolutionists, and all who would destroy the American Government. There are too many Americans who love their country and are willing to give their life for it, and who intend that all the doors of American opportunity shall remain open for the children of to-day and the children of to-morrow, to permit a few thousand anarchists, revolutionists, and I. W. W.'s to keep on with their nefarious propaganda to destroy the Government.

The views here expressed fairly represent the conclusions arrived at by the committee. We present the report to the Senate with the hope that out of it may come some remedial legislation, and, if not, with the belief that good must come of an investigation of this character where the light of publicity has been turned upon the entire transaction. We have tried to go to the bottom of the causes of this strike. We have heard both sides impartially, and proceeded without fear and without favor, solely with a determination to arrive at the truth.

WILLIAM S. KENYON.

LAWRENCE C. PHIPPS.

THOMAS STERLING.

KENNETH MCKELLAR.

DAVID I. WALSH.

APPENDIX R

STATEMENT OF PRINCIPLES WHICH SHOULD GOVERN THE EMPLOYMENT RELATION IN INDUSTRY*

(Submitted by the Employer Group to the First Industrial
Conference at Washington, D. C., 1919)

Sound industrial development must have as its foundation productive efficiency, and high productive efficiency requires not only energy, loyalty, and intelligence on the part of management and men, but sincere cooperation in the employment relation, based upon mutual confidence and sympathy.

This is true of all producing industries, large and small, of the farming industry as well as the manufacturing. While there are differences between the different branches of industry which call for special application of the underlying principles, these principles are the same in all.

Without efficiency in production, that is to say, without a large product economically produced, there will be no fund for the payment of adequate compensation for labor, management and capital, and high cost of living will inevitably continue. Moreover, without such efficiency it will be impossible for American industry successfully to compete in foreign markets or with foreign competition in this country. The larger and more effective the production, the greater will be the return to all engaged in the industry and the lower the cost of living.

The requisite efficiency in production can not be secured unless there is effective cooperation between employer and employee such as is only possible where, with a full understanding of each other's point of view, management and men meet upon a common ground of principle and in a spirit of cooperation based upon good understanding and a

* Originally prepared by the delegation of the National Industrial Conference Board. Published in pamphlet form by the Board.

recognition of what is fair and right between the two. Then only can there be that harmony which will insure the prosperity of those engaged in industry and of all the people.

With full recognition of the vital importance of these conditions, and with due realization of the great responsibility resting upon management to secure their practical application in industrial affairs, we submit the following principles which we regard as fundamentally sound in the interest of industry, of those employed or concerned in industry, and of the people as a whole.

1. *Production.* The industrial organization as a productive agency is an association of management, capital, and labor voluntarily established for economic production through cooperative effort. It is the function of management to coordinate and direct capital and labor for the joint benefit of all parties concerned and in the interest of the consumer and of the community. No employment relation can be satisfactory or fulfil its functions for the common good which does not encourage and require management and men to recognize a joint as well as an individual obligation to improve and increase the quantity and quality of production to as great an extent as possible, consistent with the health and well-being of the workers.

There should be no intentional restriction of productive effort or output by either the employer or the employee to create an artificial scarcity of the product or of labor in order to increase prices or wages; nor should there be any waste of the productive capacity of industry through the employment of unnecessary labor or inefficient management.

It is the duty of management on the farms and in industry and commerce, as far as possible, to procure the capital necessary for the increased production that is required, and of both management and labor to cooperate to promote the use of capital in the most efficient fashion.

2. *The Establishment as a Productive Unit.* Recognizing the cooperative relationship between management and men essential to productive efficiency as a prerequisite for national and individual well-being, the establishment rather than the industry as a whole or any branch of it should, as far as practicable, be considered as the unit of production

and of mutual interest on the part of employer and employee. Here, by experimentation and adaptation, should be worked out and set up satisfactory means for cooperative relations in the operation of the establishment, with due regard to local factors.

Each establishment should develop contact and full opportunity for interchange of view between management and men, through individual or collective dealing, or a combination of both, or by some other effective method, always predicated on both sides on honesty of purpose, fairness of attitude, and due recognition of the joint interest and obligation in the common enterprise in which they are engaged.

Mere machinery is not enough for this purpose. There must also be sympathy and good will, with earnest intent that, whatever the means employed, they must be effective.

3. *Conditions of Work.* It is the duty of management to make certain that the conditions under which work is carried on are as safe and as satisfactory to the workers as the nature of the business reasonably permits. Every effort should be made to maintain steady employment of the workers both on their account and to increase efficiency. Each establishment should study carefully the causes of unemployment, and individually and in cooperation with other establishments in the same and other industries should endeavor to determine and to maintain conditions and business methods which will result in the greatest possible stability in the employment relation.

4. *Wages.* While the law of supply and demand must inevitably play a large part in determining the wages in any industry or in any establishment at any particular time, other conditions must be taken into account such as the efficiency of the worker and the wage standard of the industry in the locality. The wage should be so adjusted as to promote the maximum incentive consistent with health and well-being and the full exercise of individual skill and effort. Moreover, the business in each establishment and generally in industry should be so conducted that the worker should receive a wage sufficient to maintain him and his family at a standard of living that should be satisfactory to a right-

mind man in view of the prevailing cost of living, which should fairly recognize the quantity and quality of his productive effort and the value and length of his service, and reflect a participation on his part in the prosperity of the enterprise to which he is devoting his energy.

Many plans are now under consideration for adding to the fixed wage of the worker, such, for example, as bonus payments, profit-sharing, and stock ownership. All such plans should be carefully studied in each establishment. It may well be that in many instances the employer and the employee could work out an arrangement of such a character to their mutual advantage.

In order that the worker may in his own and the general interest develop his full earning capacity and command his maximum wage, it should be a primary concern of management to assist him to secure employment suited to his abilities, to furnish him incentive and opportunity for improvement, to provide proper safeguards for his health and safety, and to aid him to increase the value of his productive effort.

Where women are doing work equal with that of men under the same conditions, they should receive the same rates of pay as men and should be accorded the same opportunities for training and advancement.

5. Hours of Work. Hours of work schedules should be fixed at the point consistent with the health of the worker and his right to an adequate period of leisure for rest, recreation, home life, and self-development. To the extent that the work schedule is shortened beyond this point the worker as well as the community must inevitably pay in the form of a reduced standard of living.

The standard of the work schedule should be the week, varying as the peculiar requirements of individual industries may demand. Overtime work should, as far as possible, be avoided, and one day of rest in seven should be provided.

6. Settlement of Disputes. Each establishment should provide adequate means for the discussion of all questions and the just and prompt settlement of all disputes that arise between management and men in the course of industrial operation, but there should be no improper limitation or

impairment of the exercise by management of its essential function of judgment and direction.

7. *Right to Associate.* All men have the right to associate voluntarily for the accomplishment of lawful purposes by lawful means. The association of men, whether of employers, employees, or others, for collective action or dealing confers no authority and involves no right of compulsion over those who do not desire to act or deal with them as an association. The arbitrary use of such collective power to coerce or control others without their consent is an infringement of personal liberty and a menace to the institutions of a free people.

8. *Responsibility of Associations.* The public safety requires that there shall be no exercise of power without corresponding responsibility. Every association, whether of employers or employees, must be equally subject to public authority and legally answerable for its own conduct or that of its agents.

9. *Freedom of Contract.* With the right to associate recognized, the fundamental principle of individual freedom demands that every person must be free to engage in any lawful occupation or enter into any lawful contract as an employer or an employee, and be secure in the continuity and rewards of his effort. The freedom of a man to work is as sacred as is his freedom to religious worship and must not be subject to restriction or menace.

The only qualification to which such liberty of contract is subject lies in the power of the State, within limits imposed by the Constitution, to regulate in the public interest, for example, for the promotion of health, safety, and morals.

10. *The Open Shop.* The principles of individual liberty and freedom of contract upon which our institutions are fundamentally based require that there should be no interference with the "open shop," that is, the shop in which membership or non-membership in any association is not made a condition of employment. While fair argument and persuasion are permissible, coercive methods aimed at turning the "open shop" into a "closed union" or "closed non-union shop" should not be tolerated.

There should be no denial of the right of an employer and his workers voluntarily to agree that their relation shall be that of the "closed union shop" or of the "closed non-union shop." But the right of the "employer and his men to continue their relations on the principle of the" "open shop" should not be denied or questioned. No employer should be required to deal with men or groups of men who are not his employees or chosen by and from among them.

Under the organization of the "open shop" there is not the same opportunity for outside interference on the part of other interests to prevent close and harmonious relations between employer and employee. Their efforts to continue or secure such harmonious relationship are not complicated to the same extent by intervention of an outside interest which may have aspirations and plans of its own to promote which are not necessarily consistent with good relations in the shop.

11. *The Right to Strike or Lockout.* In the statement of the principle that should govern as to the right to strike or lockout, a sharp distinction should be drawn between the employment relations in the field (a) of the private industry, (b) of the public utility service, and (c) of government employment, Federal, State, or Municipal. In all three there are common rights and obligations, but in so far as the right to strike or lockout is concerned, the nature of the government service and public utility operations require that they should be considered from a somewhat different point of view than private industry.

In private industry the strike or the lockout is to be deplored; but the right to strike or lockout should not be denied as an ultimate resort after all possible means of adjustment have been exhausted. Both employers and employees should recognize the seriousness of such action and should be held to a high responsibility for the same.

The statement that the right to strike or lockout should not be denied does not cover the matter of the sympathetic strike or lockout, where for mere purposes of coercion there is a combination deliberately inflicting injury upon parties against whom the assailants have no grievance, for the purpose of accomplishing an ulterior result. The sym-

pathetic strike is indefensible, antisocial, and immoral. The same may be said of the blacklist, the boycott, and also of the sympathetic lockout.

In public utility service the public interest and welfare must be the paramount and controlling consideration. Modern social life demands the uninterrupted and unimpaired operation of such service, upon which individuals and communities are as dependent as is human life on the uninterrupted circulation of the blood. The state should, therefore, impose such regulations as will assure continuous operation, at the same time providing adequate means for the prompt hearing and adjustment of complaints and disputes.

In government employment the orderly and continuous administration of governmental activities is imperative. A strike of government employees is an attempt to prevent the operation of government until the demands of such employees are granted, and cannot be tolerated. No public servant can obey two masters; he cannot divide his allegiance between the government which he serves and a private organization which, under any circumstances, might obligate him to suspend his duties, or agrees to assist him morally or financially if he does. Social self-defense demands that no combination to prevent the operation of government be permitted. The right of government employees to be heard and to secure just redress should be amply safeguarded.

12. *Training.* Practical plans should be inaugurated in industry and outside of it for the training and upgrading of industrial workers, their proper placement in industry, the adoption and adaptation of apprenticeship systems, the extension of vocational education, and such other adjustments of our educational system to the needs of industry as will prepare the worker for more effective and profitable service to society and to himself.

The foregoing is limited to a statement of principles. Only casual reference has been made to methods by which such principles may be carried into effect. The problems are so serious and difficult that such methods must be worked out by the individual establishments in conjunction with their employees and by industry as a whole.

APPENDIX S

PROPOSITION PRESENTED BY LABOR GROUP

NATIONAL INDUSTRIAL CONFERENCE, OCTOBER, 1919

This conference of representatives of the public, of the employers and business men, and of labor, called by the President of the United States, hereby declares in favor of the following:

1. The right of wage-earners to organize in trade- and labor-unions for the protection and promotion of their rights, interests, and welfare.

2. The right of wage-earners to bargain collectively through trade- and labor-unions with employers regarding wages, hours of labor, and relations and conditions of employment.

3. The right of wage-earners to be represented by representatives of their own choosing in negotiations and adjustments with employers in respect to wages, hours of labor, and relations and conditions of employment.

4. The right of freedom of speech, of the press and of assemblage, all being responsible for their utterances and actions.

5. The right of employers to organize into associations or groups to bargain collectively through their chosen representatives in respect to wages, hours of labor, and relations and conditions of employment.

6. The hours of labor should not exceed eight hours per day. One day of rest in each week should be observed, preferably Sunday. Half-holiday on Saturday should be encouraged.

Overtime beyond the established hours of labor should be discouraged, but when absolutely necessary should be paid for at a rate not less than time and one-half time.

7. The right of all wage-earners, skilled and unskilled, to a living wage is hereby declared, which minimum wage

shall insure the workers and their families to live in health and comfort in accord with the concepts and standards of American life.

8. Women should receive the same pay as men for equal work performed.

Women workers should not be permitted to perform tasks disproportionate to their physical strength or which tend to impair their potential motherhood and prevent the continuation of a nation of strong, healthy, sturdy and intelligent men and women.

9. The services of children less than sixteen years of age for private gain should be prohibited.

10. To secure a greater share of consideration and cooperation to the workers in all matters affecting the industry in which they are engaged, to secure and assure continuously improved industrial relations between employers and workers and to safeguard the rights and principles hereinbefore declared, as well as to advance conditions generally, a method should be provided for the systematic review of industrial relations and conditions by those directly concerned in each industry.

To this end, there should be established by agreement between the organized workers and associated employers in each industry a national conference board, consisting of an equal number of representatives of employers and workers, having due regard to the various sections of the industry and the various classes of workmen engaged, to have for its object the consideration of all subjects affecting the progress and well-being of the trade, to promote efficiency of production from the viewpoint of those engaged in the industry and to protect life and limb, as well as safeguard and promote the rights of all concerned within the industry.

With a further view of providing means for carrying out this policy, the Federal Government, through its Department of Labor, should encourage and promote the formation of national conference boards in the several industries where they do not already exist. To still further encourage the establishment of these national conference boards in each industry, these conference boards should be urged whenever required, to meet jointly, to consider any proposed legisla-

tion affecting industries in order that employers and workers may voluntarily adopt and establish such conditions as are needful, and may also counsel and advise with the Government in all industrial matters wherever needful legislation is required.

The Federal Government should also undertake to extend the functions of the Department of Labor to ascertain and provide adequate information and advice to the several national conference boards on all matters affecting the life, health, and general welfare of the wage-earners within such industries.

11. The flow of immigration should at no time exceed the nation's ability to assimilate and Americanize the immigrants coming to our shores, and at no time shall immigration be permitted when there exists an abnormal condition of unemployment.

By reason of existing conditions we urge that all immigration into the United States be prohibited at least until two years after peace shall have been declared.

APPENDIX T

PRINCIPLES OF INDUSTRIAL RELATIONS ADOPTED BY THE UNITED STATES CHAMBER OF COMMERCE

APRIL, 1919

1. Industrial enterprise, as a source of livelihood for both employer and employee, should be so conducted that due consideration is given to the situation of all persons dependent upon it.

2. The public interest requires adjustment of industrial relations by peaceful methods.

3. Regularity and continuity of employment should be sought to the fullest extent possible and constitute a responsibility resting alike upon employer, wage-earners, and the public.

4. The right of workers to organize is as clearly recognized as that of any other element or part of the community.

5. Industrial harmony and prosperity will be most effectually promoted by adequate representation of the parties in interest. Existing forms of representation should be carefully studied and availed of in so far as they may be found to have merit and are adaptable to the peculiar conditions in the various industries.

6. Whenever agreements are made with respect to industrial relations they should be faithfully observed.

7. Such agreements should contain provision for prompt and final interpretation in the event of controversy regarding meaning or application.

8. Wages should be adjusted with due regard to the purchasing power of the wage and to the right of every man to an opportunity to earn a living at fair wages, to reasonable hours of work and working conditions, to a decent home, and to the enjoyment of proper social conditions.

9. Fixing of a basic day as a device for increasing compensation is a subterfuge that should be condemned.

10. Efficient production in conjunction with adequate wages is essential to successful industry. Arbitrary restriction on output below reasonable standards is harmful to the interests of wage-earners, employers, and the public, and should not be permitted. Industry, efficiency, and initiative, wherever found, should be encouraged and adequately rewarded, while indolence and indifference should be condemned.

11. Consideration of reduction in wages should not be reached until possibility of reduction of costs in all other directions has been exhausted.

12. Administration of employment and management of labor should be recognized as a distinct and important function of management, and accorded its proper responsibility in administrative organization.

13. A system of national employment offices, with due provision for cooperation with existing State and Municipal systems, can be made, under efficient management and if conducted with due regard to the equal interests of employers and employees in its proper administration, a most helpful agency, but only if all appointments are made strictly subject to the civil service law and rules. Policies governing the conduct of a national system of employment offices should be determined in conjunction with Advisory Boards—National, State and local—equally representative of employers and employees.

APPENDIX U

RECONSTRUCTION PROGRAM OF THE AMERICAN FEDERATION OF LABOR, 1918

On January 4th the American Federation of Labor reconstruction program was submitted to the Senate Committee on Education and Labor in connection with the hearings conducted by the committee on S. Res. 382, directing the committee to recommend to the Senate methods of promoting better social and industrial conditions in the country. The program was drafted by the committee on reconstruction appointed by instruction of the conference of the American Federation of Labor, held at St. Paul, Minn., June 10 to 20, 1918, and has been endorsed by the Executive Council of the Federation. The full text of this reconstruction program is as follows:

The World War has forced all free peoples to a fuller and deeper realization of the menace to civilization contained in autocratic control of the activities and destinies of mankind.

It has caused a world-wide determination to overthrow and eradicate all autocratic institutions, so that a full measure of freedom and justice can be established between man and man and nation and nation.

It has awakened more fully the consciousness that the principles of democracy should regulate the relationship of men in all their activities.

It has opened the doors of opportunity through which more sound and progressive policies may enter.

New conceptions of human liberty, justice, and opportunity are to be applied.

The American Federation of Labor, the one organization representing labor in America, conscious that its responsibilities are now greater than before, presents a program for the guidance of labor, based upon experience and form-

ulated with a full consciousness of the principles and policies which have successfully guided American trade-unionism in the past.

Democracy in Industry

Two codes of rules and regulations affect the workers: The law upon the statute books and the rules within industry.

The first determines their relationship as citizens to all other citizens and to property.

The second largely determines the relationship of employer and employee, the terms of employment, the conditions of labor, and the rules and regulations affecting the workers as employees. The first is secured through the application of the methods of democracy in the enactment of legislation, and is based upon the principle that the laws which govern a free people should exist only with their consent.

The second, except where effective trade-unionism exists, is established by the arbitrary or autocratic whim, desire, or opinion of the employer and is based upon the principle that industry and commerce can not be successfully conducted unless the employer exercises the unquestioned right to establish such rules, regulations, and provisions affecting the employees as self-interest prompts.

Both forms of law vitally affect the workers' opportunities in life and determine their standard of living. The rules, regulations, and conditions within industry in many instances affect them more than legislative enactments. It is, therefore, essential that the workers should have a voice in determining the laws within industry and commerce which affect them, equivalent to the voice which they have as citizens in determining the legislative enactments which shall govern them.

It is as inconceivable that the workers as free citizens should remain under autocratically made law within industry and commerce as it is that the nation could remain a democracy while certain individuals or groups exercise autocratic powers.

It is therefore essential that the workers everywhere

should insist upon their right to organize into trade-unions, and that effective legislation should be enacted which would make it a criminal offense for any employer to interfere with or hamper the exercise of this right or to interfere with the legitimate activities of trade-unions.

Unemployment

Political economy of the old school, conceived by doctrinaires, was based upon unsound and false doctrines, and has since been used to blindfold, deceive, and defeat the workers' demands for adequate wages, better living and working conditions, and a just share of the fruits of their labor.

We hold strictly to the trade-union philosophy and its developed political economy based upon demonstrated facts.

Unemployment is due to underconsumption. Underconsumption is caused by low or insufficient wages.

Just wages will prevent industrial stagnation and lessen periodical unemployment.

Give the workers just wages and their consuming capacity is correspondingly increased. A man's ability to consume is controlled by the wages received. Just wages will create a market at home which will far surpass any market that may exist elsewhere and will lessen unemployment.

The employment of idle workmen on public work will not permanently remove the cause of unemployment. It is an expedient at best.

There is no basis in fact for the claim that the so-called law of supply and demand is natural in its operations and impossible of control or regulation.

The trade-union movement has maintained standards, wages, hours, and life in periods of industrial depression and idleness. These in themselves are a refutation of the declared immutability of the law of supply and demand.

There is, in fact, no such condition as an iron law of wages based upon a natural law of supply and demand. Conditions in commerce and industry, methods of production, storing of commodities, regulation of the volume of production, banking systems, the flow and direction of enterprise influenced by combinations and trusts have effectively

destroyed the theory of a natural law of supply and demand as had been formulated by doctrinaire economists.

Wages

There are no means whereby the workers can obtain and maintain fair wages except through trade-union effort. Therefore, economic organization is paramount to all their other activities.

Organization of the workers leads to better wages, fewer working hours, improved working conditions; it develops independence, manhood, and character; it fosters tolerance and real justice and makes for a constantly growing better economic, social and political life for the burden-bearing masses.

In countries where wages are best, the greatest progress has been made in economic, social and political advancement, in science, art, literature, education, and in the wealth of the people generally. All low wage-paying countries contrasted with America is proof of this statement.

The American standard of life must be maintained and improved. The value of wages is determined by the purchasing power of the dollar. There is no such thing as good wages when the cost of living in decency and comfort equals or exceeds the wages received. There must be no reduction in wages; in many instances wages must be increased.

The workers of the nation demand a living wage for all wage-earners, skilled or unskilled; a wage which will enable the worker and his family to live in health and comfort, provide a competence for illness and old age, and afford to all the opportunity of cultivating the best that is within mankind.

Hours of Labor

Reasonable hours of labor promote the economic and social well-being of the toiling masses. Their attainment should be one of labor's principal and essential activities. The shorter workday and a shorter workweek make for a constantly growing, higher and better standard of productivity, health, longevity, morals and citizenship.

The right of labor to fix its hours of work must not be abrogated, abridged, or interfered with.

The day's working time should be limited to not more than eight hours, with overtime prohibited, except under the most extraordinary emergencies. The week's working time should be limited to not more than five and one-half days.

Women as Wage-earners

Women should receive the same pay as men for equal work performed. Women workers must not be permitted to perform tasks disproportionate to their physical strength or which tend to impair their potential motherhood and prevent the continuation of a nation of strong, healthy, sturdy, and intelligent men and women.

Child Labor

The children constitute the nation's most valuable asset. The full responsibility of the Government should be recognized by such measures as will protect the health of every child at birth and during its immature years.

It must be one of the chief functions of the nation through effective legislation to put an immediate end to the exploitation of children under 16 years of age.

State legislatures should protect children of immature years by prohibiting their employment, for gain, under sixteen years of age and restricting the employment of children of less than eighteen years of age to not more than twenty hours within any one week and with not less than twenty hours at school during the same period.

Exploitation of child life for private gain must not be permitted.

Status of Public Employees

The fixing of wages, hours, and conditions of labor for public employees by legislation hampers the necessary exercise of organizations and collective bargaining.

Public employees must not be denied the right of organization, free activities and collective bargaining, and must not be limited in the exercise of their rights as citizens.

Cooperation

To attain the greatest possible development of civilization, it is essential, among other things, that the people should never delegate to others those activities and responsibilities which they are capable of assuming for themselves. Democracy can function best with the least interference by the State compatible with due protection to the rights of all citizens.

There are many problems arising from production, transportation, and distribution, which would be readily solved by applying the methods of cooperation. Unnecessary middlemen who exact a tax from the community without rendering any useful service can be eliminated.

The farmers through cooperative dairies, canneries, packing-houses, grain-elevators, distributing houses, and other cooperative enterprises, can secure higher prices for their products and yet place these in the consumer's hands at lower prices than would otherwise be paid. There is an almost limitless field for the consumers in which to establish cooperative buying and selling, and in this most necessary development the trade-unionists should take an immediate and active part.

Trade-unions secure fair wages. Cooperation protects the wage-earner from the profiteer.

Participation in these cooperative agencies must of necessity prepare the mass of the people to participate more effectively in the solution of the industrial, commercial, social, and political problems which continually arise.

The People's Final Voice in Legislation

It is manifestly evident that a people are not self-governing unless they enjoy the unquestioned power to determine the form and substance of the laws which shall govern them. Self-government can not adequately function if there exists within the nation a superior power or authority which can finally determine what legislation enacted by the people, or their duly elected representatives, shall be placed upon the statute books and what shall be declared null and void.

An insuperable obstacle to self-government in the United States exists in the power which has been gradually assumed by the Supreme Courts of the Federal and State Governments to declare legislation null and void upon the ground that, in the court's opinion, it is unconstitutional.

It is essential that the people, acting directly or through Congress or State Legislatures, should have final authority in determining which laws shall be enacted. Adequate steps must be taken, therefore, which will provide that in the event of a Supreme Court declaring an Act of Congress or of a State Legislature unconstitutional and the people acting directly or through Congress or a State Legislature should reenact the measure, it shall then become the law without being subject to annulment by any court.

Political Policy

In the political efforts, arising from the workers' necessity to secure legislation covering those conditions and provisions of life not subject to collective bargaining with employers, organized labor has followed two methods: One by organizing political parties, the other by the determination to place in public office representatives from their ranks; to elect those who favor and champion the legislation desired and to defeat those whose policy is opposed to labor's legislative demands, regardless of partisan politics.

The disastrous experience of organized labor in America with political parties of its own amply justified the American Federation of Labor's nonpartisan political policy. The results secured by labor parties in other countries never have been such as to warrant any deviation from this position. The rules and regulations of trade-unionism should not be extended so that the action of a majority could force a minority to vote for or give financial support to any political candidate or party to whom they are opposed. Trade-union activities can not receive the undivided attention of members and officers if the exigencies, burdens, and responsibilities of a political party are bound up with their economic and industrial organizations.

The experiences and results attained through the nonpartisan political policy of the American Federation of

Labor cover a generation. They indicate that through its application the workers of America have secured a much larger measure of fundamental legislation, establishing their rights, safeguarding their interests, protecting their welfare and opening the doors of opportunity than have been secured by the workers of any other country.

The vital legislation now required can be more readily secured through education of the public mind and the appeal to its conscience, supplemented by energetic independent political activity on the part of trade-unionists, than by any other method. This is and will continue to be the political policy of the American Federation of Labor, if the lessons which labor has learned in the bitter but practical school of experience are to be respected and applied.

It is, therefore, most essential that the officers of the American Federation of Labor, the officers of the affiliated organizations, State Federations and central labor bodies and the entire membership of the trade-union movement should give the most vigorous application possible to the political policy of the American Federation of Labor so that labor's friends and opponents may be more widely known, and the legislation most required readily secured. This phase of our movement is still in its infancy. It should be continued and developed to its logical conclusion.

Government Ownership

Public and semipublic utilities should be owned, operated or regulated by the Government in the interest of the public.

Whatever final disposition shall be made of the railways of the country in ownership, management, or regulation, we insist upon the right of the workers to organize for their common and mutual protection and the full exercise of the normal activities which come with organization. Any attempt at the denial by governmental authority of the rights of the workers to organize, to petition, to representation and to collective bargaining, or the denial of the exercise of their political rights is repugnant to the fundamental principles of free citizenship in a republic and is destructive of their best interest and welfare.

The Government should own and operate all wharves and

docks connected with public harbors which are used for commerce or transportation.

The American merchant marine should be encouraged and developed under governmental control, and so manned as to insure successful operation and protect in full the beneficent laws now on the statute books for the rights and welfare of seamen. The seamen must be accorded the same rights and privileges rightfully exercised by the workers in all other employments, public and private.

Waterways and Water Power

The lack of a practical development of our waterways and the inadequate extension of canals have seriously handicapped water traffic and created unnecessarily high cost for transportation. In many instances it has established artificial restrictions which have worked to the serious injury of communities, owing to the schemes of those controlling a monopoly of land transportation. Our navigable rivers and our great inland lakes should be connected with the sea by an adequate system of canals, so that inland production can be more effectively fostered, the costs of transportation reduced, the private monopoly of transportation overcome and imports and exports shipped at lower costs.

The nation is possessed of enormous water power. Legislation should be enacted providing that the governments, Federal and State should own, develop and operate all water power over which they have jurisdiction. The power thus generated should be supplied to all citizens at rates based upon cost. The water power of the nation, created by nature, must not be permitted to pass into private hands for private exploitation.

Regulation of Land Ownership

Agriculture and stock-raising are essential to national safety and well-being. The history of all countries, at all times, indicates that the conditions which create a tenant class of agriculturists work increasing injury to the tillers of the soil. While increasing the price of the product to the consumer these conditions at the same time develop a class of large landowners who contribute little, if anything,

to the welfare of the community but who exact a continually increasing share of the wealth produced by the tenant. The private ownership of large tracts of usable land is not conducive to the best interests of a democratic people.

Legislation should be enacted placing a graduated tax upon all usable lands above the acreage which is cultivated by the owner. This should include provisions through which the tenant farmer, or others, may purchase land upon the lowest rate of interest and most favorable terms consistent with safety, and so safeguarded by governmental supervision and regulation as to give the fullest and freest opportunity for the development of land-owning agriculturists.

Special assistance should be given in the direction of allotments of lands and the establishment of homes on the public domain.

Establishment of Government experimental farms, measures for stock-raising, instruction, the irrigation of arid lands and reclamation of swamp and cut-over lands should be undertaken upon a large scale under direction of the Federal Government.

Municipalities and States should be empowered to acquire lands for cultivation or the erection of residential buildings which they may use or dispose of under equitable terms.

Federal and State Regulation of Corporations

The creation by legislative enactment of corporations, without sufficient definition of the powers and scope of activities conferred upon them and without provisions for their adequate supervision, regulation and control by the creative body, has led to the development of far reaching abuses which have seriously affected commerce, industry and the masses of the people through their influence upon social, industrial, commercial, and political development. Legislation is required which will so limit, define and regulate the powers, privileges and activities of corporations that their methods can not become detrimental to the welfare of the people. It is, therefore, essential that legislation should provide for the Federal licensing of all corporations organized for profit. Furthermore, Federal supervision and con-

trol should include the increasing of capital stock and the incurring of bonded indebtedness with the provision that the books of all corporations shall be open at all times to Federal Examiners.

Freedom of Expression and Association

The very life and perpetuity of free and democratic institutions are dependent upon freedom of speech, of the press, and of assemblage and association. We insist that all restrictions of freedom of speech, press, public assembly, association, and travel be completely removed, individuals and groups being responsible for their utterances. These fundamental rights must be set out with clearness and must not be denied or abridged in any manner.

Workmen's Compensation

Workmen's compensation laws should be amended to provide more adequately for those incapacitated by industrial accidents or occupational diseases. To assure that the insurance fund derived from commerce and industry will be paid in full to injured workers, State insurance must supplant, and prohibit the existence of, employers' liability insurance operated for profit.

Immigration

Americanization of those coming from foreign lands, as well as our standards of education and living, are vitally affected by the volume and character of the immigration.

It is essential that additional legislation regulating immigration should be enacted, based upon two fundamental propositions, namely, that the flow of immigration must not at any time exceed the nation's ability to assimilate and Americanize the foreigners coming to our shores, and that at no time shall immigration be permitted when there exists an abnormal degree of unemployment.

By reason of existing conditions we urge that immigration into the United States should be prohibited for a period of at least two years after peace has been declared.

Taxation

One of the nation's most valuable assets is the initiative, energetic, constructive and inventive genius of its people. These qualities when properly applied should be fostered and protected instead of being hampered by legislation, for they constitute an invaluable element of progress and material development. Taxation should, therefore, rest as lightly as possible upon constructive enterprise. Taxation should provide for full contribution from wealth by a tax upon profits which will not discourage industrial or commercial enterprise. There should be provided a progressive increase in taxes upon incomes, inheritances, and upon land values of such a nature as to render it unprofitable to hold land without putting it to use, to afford a transition to greater economic equality and to supply means of liquidating the national indebtedness growing out of the war.

Education

It is impossible to estimate the influence of education upon the world's civilization. Education must not stifle thought and inquiry, but must awaken the mind concerning the application of natural laws and to a conception of independence and progress.

Education must not be for a few but for all our people. While there is an advanced form of public education in many States, there still remains a lack of adequate educational facilities in several States and communities. The welfare of the Republic demands that public education should be elevated to the highest degree possible. The Government should exercise advisory supervision over public education and, where necessary, maintain adequate public education through subsidies without giving to the Government power to hamper or interfere with the free development of public education by the several States. It is essential that our system of public education should offer the wage-earners' children the opportunity for the fullest possible development. To attain this end, State colleges and universities should be developed.

It is also important that the industrial education which is being fostered and developed should have for its purpose

not so much training for efficiency in industry as training for life in an industrial society. A full understanding must be had of those principles and activities that are the foundation of all productive efforts. Children should not only become familiar with tools and materials, but they should also receive a thorough knowledge of the principles of human control, of force and matter underlying our industrial relations and sciences. The danger that certain commercial and industrial interests may dominate the character of education must be averted by insisting that the workers shall have equal representation on all boards of education or committees having control over vocational studies and training.

To elevate and advance the interests of the teaching profession and to promote popular and democratic education, the right of the teachers to organize and to affiliate with the movement of the organized workers must be recognized.

Private Employment Agencies

Essentials in industry and commerce are employee and employer, labor and capital. No one questions the right of organized capital to supply capital to employers. No one should question the right of organized labor to furnish workers. Private employment agencies abridge this right of organized labor.

Where Federal, State, and municipal employment agencies are maintained they should operate under the supervision of joint committees of trade-unionists and employers, equally represented.

Private employment agencies operated for profit should not be permitted to exist.

Housing

Child life, the workers' physical condition, and public health demand that the wage-earner and his family shall be given a full opportunity to live under wholesome conditions. It is not only necessary that there shall be sanitary and appropriate houses to live in, but that a sufficient number of dwellings shall be available to free the people from high rents and overcrowding.

The ownership of homes, free from the grasp of exploitive and speculative interests will make for more efficient workers, more contented families, and better citizens. The Government should, therefore, inaugurate a plan to build model homes and establish a system of credits whereby the workers may borrow money at a low rate of interest and under favorable terms to build their own homes. Credit should also be extended to voluntary non-profit-making housing and joint-tenancy associations. States and municipalities should be freed from the restrictions preventing their undertaking proper housing projects and should be permitted to engage in other necessary enterprises relating thereto. The erection and maintenance of dwellings where migratory workers may find lodging and nourishing food during periods of unemployment should be encouraged and supported by municipalities.

If need should arise to expend public funds to relieve unemployment, the building of wholesome houses would best serve the public interests.

Militarism

The trade-union movement is unalterably and emphatically opposed to "militarism" or a large standing army. "Militarism" is a system fostered and developed by tyrants in the hope of supporting their arbitrary authority. It is utilized by those whose selfish ambitions for power and worldly glory lead them to invade and subdue other peoples and nations to destroy their liberties, to acquire their wealth, and to fasten the yoke of bondage upon them. The trade-union movement is convinced by the experience of mankind that "militarism" brutalizes those influenced by the spirit of the institution. The finer elements of humanity are strangled. Under "militarism," a deceptive patriotism is established in the people's minds where men believe that there is nobility of spirit and heroism in dying for the glory of a dynasty or the maintenance of institutions which are inimical to human progress and democracy. "Militarism" is the application of arbitrary and irresponsible forces as opposed to reason and justice. Resistance to injustice and tyranny is that virile quality which has given purpose and

effect to ennobling causes in all countries and at all times. The free institutions of our country and the liberties won by its founders would have been impossible had they been unwilling to take arms and, if necessary, die in defense of their liberties. Only a people willing to maintain their rights and defend their liberties are guaranteed free institutions.

Conditions foreign to the institutions of our country have prevented the entire abolition of organized bodies of men trained to carry arms. A voluntary citizen soldiery supplies what would otherwise take its place—a large standing army. To the latter we are unalterably opposed as tending to establish the evils of “militarism.” Large standing armies threaten the existence of civil liberty. The history of every nation demonstrates that as standing armies are enlarged the rule of democracy is lessened or extinguished. Our experience has been that even this citizen soldiery, the militia of our States, has given cause at times for grave apprehension. Their ranks have not always been free from undesirable elements, particularly the tools of corporations involved in industrial disputes. During industrial disputes the militia has at times been called upon to support the authority of those who through selfish interests desired to enforce martial law while the courts were open and the civil authorities competent to maintain supremacy of civil law. We insist that the militia of our several States should be wholly organized and controlled by democratic principles so that this voluntary force of soldiery may never be diverted from its true purpose and used to jeopardize or infringe upon the rights and liberties of our people. The right to bear arms is a fundamental principle of our Government, a principle accepted at all times by free people as essential to the maintenance of their liberties and institutions. We demand that this right shall remain inviolate.

Soldiers and Sailors

Soldiers and sailors, those who entered the service in the Nation's defense, are entitled to the generous reward of a grateful Republic.

The necessities of war called upon millions of workmen

to leave their positions in industry and commerce to defend, upon the battle fields, the Nation's safety and its free institutions. These defenders are now returning. It is advisable that they should be discharged from military service at the earliest possible moment; that as civilians they may return to their respective homes and families and take up their peace-time pursuits. The Nation stands morally obligated to assist them in securing employment.

Industry has undergone great changes due to the dislocation caused by war production and transportation. Further readjustments in industry and commerce must follow the rehabilitation of business under peaceful conditions. Many positions which our citizen soldiers and sailors filled previous to enlistment do not exist to-day.

It would be manifestly unjust for the Government, after having removed the worker from his position in industry and placed him in military service, to discharge him from the Army or Navy without having made adequate provision to assist him in procuring employment and providing sustenance until employment has been secured. The returned citizen soldier or sailor should not be forced by the bitter urgent necessity of securing food and clothing to place himself at a disadvantage when seeking employment.

Upon their discharge, transportation and meals should be supplied to their places of residence. The monthly salary previously paid should be continued for a period not to exceed twelve months if employment is not secured within that period.

The Federal and State employment bureaus should be directed to cooperate with trade-union agencies in securing employment for discharged soldiers and sailors. In assisting the discharged soldier and sailor to secure employment, Government agencies should not expect them to accept employment for less than the prevailing rate of wages being paid in industry. Neither should any Government agency request or require such discharged men to accept employment where a trade dispute exists or is threatened. Nor should the refusal on the part of any of these discharged soldiers or sailors to accept employment where trade disputes exist or are threatened or when less than the prevail-

ing wage rate is offered, deprive them of a continuance of their monthly pay.

Legislation also should be enacted which will give the Nation's defenders the opportunity for easy and ready access to the land. Favorable inducements should be provided for them to enter agriculture and husbandry. The Government should assume the responsibility for the allotment of such lands, and supply the necessary capital for its development and cultivation, with such safeguards as will protect both the Government and the discharged soldier and sailor.

Conclusion

No element in our Nation is more vitally concerned with the problems of making for a permanent peace between all nations than the working people. The opportunities now before us are without precedent. It is of paramount importance that labor shall be free and unhampered in shaping the principles and agencies affecting the wage earners' condition of life and work.

By the light that has been given to it the American Federation of Labor has attracted to its fold over three million of wage-earners and its sphere of influence and helpfulness is growing by leaps and bounds. By having followed safe and sound fundamental principles and policies, founded on freedom, justice, and democracy, the American trade-union movement has achieved successes of an inestimable value to the masses of toilers of our country. By adhering to these principles and policies we can meet all problems of readjustment, however grave in importance and difficult of solution, with a feeling of assurance that our efforts will be rewarded by a still greater success than that achieved in the past.

Given the whole-hearted support of all men and women of labor our organized labor movement with its constructive program, its love for freedom, justice, and democracy, will prove the most potent factor in protecting, safeguarding, and promoting the general welfare of the great mass of our people during this trying period of reconstruction and all times thereafter.

The American Federation of Labor has attained its present position of dignity and splendid influence because of its adherence to one common cause and purpose; that purpose is to protect the rights and interests of the masses of the workers and to secure for them a better and brighter day. Let us therefore strive on and on to bring into our organizations the yet unorganized. Let us concentrate our efforts to organize all the forces of wage-earners. Let the Nation hear the united demand from the laboring voice. Now is the time for the workers of America to come to the stand of their unions and to organize as thoroughly and completely and compactly as is possible. Let each worker bear in mind the words of Longfellow:

In the world's broad field of battle,
In the bivouac of life,
Be not like dumb, driven cattle,
Be a hero in the strife.

APPENDIX V

LABOR, ITS GRIEVANCES, PROTESTS AND DEMANDS

(Statement issued by Labor Conference, Washington, D. C.
December 13, 1919)

We speak in the name of millions who work—those who make and use tools—those who furnish the human power necessary for commerce and industry. We speak as part of the nation and of those things of which we have special knowledge. Our welfare and interest are inseparably bound up with the well-being of the nation. We are an integral part of the American people and we are organized to work out the welfare of all.

The urgent problems that sorely trouble our nation and vitally affect us as workers make necessary this special consultation.

The great victories for human freedom must not have been won in vain. They must serve as the instruments and the inspiration for a greater and nobler freedom for all mankind.

Autocratic, political, and corporate industrial and financial influences in our country have sought, and are seeking, to infringe upon and limit the fundamental rights of the wage-earners guaranteed by the constitution of the United States.

Powerful forces are seeking more and more aggressively to deny to wage-earners their right to cease work. We denounce these efforts as vicious and destructive of the most precious liberties of our people. The right to cease work—strike—as a final means of enforcing justice from an autocratic control of industry, must be maintained.

The autocratic attitude and destructive action of the United States Steel Corporation and its subsidiary branches to oppress the workers by denying them the exercise of their freedom of action, freedom of association, freedom of

expression, must give way to a better understanding and relation and to secure the wage-earners in the exercise of their rights and liberties as free workers and citizens.

We realize fully all that is involved in the exercise of the right to strike, but only by the exercise of that right can industrial autocrats be compelled to abandon their tyranny and give way to the establishment of freedom and justice in industry.

American Labor sets for itself the task, gladly and proudly assumed, to preserve and perpetuate this standard of justice and measure of liberty.

We protest against the attitude and action of the majority of the representatives of the employers in the employers' group who participated in the President's Industrial Conference October 6-23, 1919.

The proposals which the representatives of labor submitted to the conference were conservative, constructive and helpful. They were calculated to establish a working basis for the promotion of better relations between employers and workers—the right to organize, the right to collective bargaining through representatives of the workers' own choosing. The representatives of the public constituted as a group endorsed and voted for that principle. By a small majority the employers' group voted against it, and thus the proposals were defeated and the conference failed.

The protection of the rights and interests of wage-earners in national, state and municipal service requires for them the right of organization. Since the interests of these workers can be best promoted through legislation and administration, their right to organization and affiliation with the A. F. of L. must at all times be fully safeguarded.

The paramount issues that concern all the people of the United States, and in particular the wage-earners, are the perversion and the abuse of the writ of injunction and the necessity for full and adequate protection of the voluntary associations of wage-earners organized not for profit.

Government by injunction has grown out of the perversion of the injunction process. By the misuse of that process workers have been forbidden to do those things which they have a natural and constitutional right to do.

The injunction as now used is a revolutionary measure which substitutes government by judicial discretion or bias for government by law. It substitutes a trial by one man, a judge, in his discretion, for a trial by jury. This abuse of the injunctive process undermines and destroys the very foundations of our free institutions. It is subversive of the spirit of a free people working out their destiny in an orderly and rational manner.

Because we have reverence for law, because we believe that every citizen must be a guardian of the heritage given us by our fathers who fought for and established freedom and democracy, by every lawful means we must resist the establishment of a practise that would destroy the very spirit of freedom and democracy. Our protest against the abuse of the writ of injunction and its unwarranted application to Labor in the exercise of Labor's normal activities to realize laudable aspirations is a duty we owe to ourselves and to posterity.

Formerly injunctions issued in labor disputes were of a prohibitive character. Within the recent past this abuse of the injunction writ has been enlarged to include mandatory orders whereby men have been compelled to do specific things which they have a lawful right to refrain from doing.

We declare these abuses in the exercise of the injunction writ are clearly violative of the constitution and that this issue must be determined definitely in accordance with the guaranties of the constitution of the United States.

Workers are free citizens, not slaves. They have the constitutional right to cease working. The strike is a protest against autocratic management. To penalize strikes or to make them unlawful is to apply an unwarrantable and destructive method when a constructive one is available. To reduce the necessity for strikes, the cause should be found and removed. The government has a greater obligation in this matter than to use its coercive powers.

Legislation which proposes to make strikes unlawful or to compel the wage-earners to submit their grievances or aspirations to courts or to governmental agencies, is an invasion of the rights of the wage-earners and when enforced makes for industrial serfdom or slavery.

We hold that the government should supply information, assistance and counsel, but that it should not attempt by the force of its own power to stifle or to destroy voluntary relations and policies of mutuality between employers and employees.

We specifically denounce the antistrike provisions of the Cummins bill and all similar proposed legislation as un-American, as being vicious in character, and establishing by legislation involuntary servitude.

The warning given by Jefferson that the danger to the people of this Republic lies in the usurpation by our judiciary of unconstitutional authority, has been fully demonstrated. A judiciary unresponsive to the needs of the time, arrogating to itself powers which neither the constitution nor the purposes of our laws have conferred upon them, demands that at least in our time Americans must insist upon safeguarding their liberties and the spirit of the sacred institutions of our Republic.

We urge that the judges of our federal courts shall be elected by the people for terms not exceeding six years.

We assert that there can not be found in the constitution of the United States or in the discussion of the Congress which drafted the constitution any authority for the federal courts of our country to declare unconstitutional any act passed by Congress. We call upon the people of our country to demand that the Congress of the United States shall take action for the purpose of preventing the federal courts from continuing the usurpation of such authority.

We declare that the voluntary organizations of the workers, organized not for profit, are agencies of human progress and promote justice in industry and trade. Despite legislative declarations that trade unions do not come under the provisions of antitrust legislation, courts have not understood and are not now able or willing to understand that the organizations of wage-earners are not conspiracies in restraint of trade.

We submit that antitrust legislation has not only been interpreted to serve the purpose of outlawing trade-unions, robbing them of their treasuries and the savings of their members and depriving them of their legal and natural

rights to the exercise of normal activities, but that it has also failed completely to protect the people against the outrageous machinations of combinations and monopolies.

The United Mine Workers of America did all in their power to avert an industrial controversy in the coal industry. The autocratic attitude of the mine owners was responsible for the losses and sufferings entailed. While the miners have returned to the mines and have only now been afforded the opportunity of having their grievances and demands brought to the light of reason, it is our hope that a full measure of justice will be accorded them even at this late date.

There is a widespread belief that wages should be fixed on a cost-of-living basis. This idea is pernicious and intolerable. It means putting progress in chains, and liberty in fetters. It means fixing a standard of living and a standard of life and liberty which must remain fixed. America's workers can not accept that proposition.

They demand a progressively advancing standard of life. They have an abiding faith in a better future for all mankind. They discard and denounce a system of fixing wages solely on the basis of family budgets and bread bills. Workers are entitled not only to a living, but modern society must provide more than what is understood by the term, "a living." It must concede to all workers a fairer reward for their contribution to society, a contribution without which a progressing civilization is impossible.

No factor contributes more to industrial unrest and instability than excessive costs of necessities of life. It is a demonstrated truth that the cost of living has advanced more rapidly than have wages. The claim that increasing wages make necessary increased prices is false. It is intended to throw upon the workers the blame for a process by which all the people have been made to suffer. Labor has been compelled to struggle desperately to keep wages in some measure up to the cost of living. The demand for higher compensation to meet new price levels has made industrial readjustment necessary.

Existing high and excessive prices are due to the present inflation of money and credits, to profiteering by those who

manufacture, sell and market products, and to burdens levied by middlemen and speculators. We urge:

The deflation of currency; prevention of hoarding and unfair price fixing; establishment of cooperative movements operated under the Rochdale system; making accessible all income tax returns and dividend declarations as a direct and truthful means of revealing excessive costs and profits.

The ideal of America should be the organization of industry for service and not for profit alone. The stigma of disgrace should attach to every person who profits unduly at the expense of his fellow men.

Labor is fully conscious that the world needs things for use and that standards of life can improve only as production for use and consumption increases. Labor is anxious to work out better methods for industry and demands it be assured that increased productivity will be used for service and not alone for profits.

Wage-earners aspire to be something more than numbers on the books of an industrial plant, something more than attendants of a machine, something more than cogs in an industrial system dominated by machinery owned and operated for profit alone. The workers insist upon being masters of themselves.

Labor understands fully that powerful interests today are determined to achieve reaction in industry, if possible. They seek to disband or cripple the organizations of workers. They seek to reduce wages and thus lower the standard of living. They seek to keep free from restriction their power to manipulate and fix prices. They seek to destroy the democratic impulse of the workers which is bred into their movement by the democracy of the American Republic.

Labor must be and is militant in the struggle to combat these sinister influences and tendencies. Labor will not permit a reduction in the standard of living. It will not consent to reaction toward autocratic control. In this it is performing a public service.

Only in high-wage countries is productivity in industry greatest. Only in high-wage countries do the people enjoy high standards of living. Low-wage countries present the

least degree of productivity and offer to their people only low standards of living and restricted liberties. Autocracy always insists upon restricting the income and the activities of workers.

Creative power lies dormant where autocratic management prevails. No employer has a vested right to the good will of his employees. That must be earned, as between men. It can be earned only when management deals with workers as human beings and not as machines. There can not be a full release of productive energy under an autocratic control of industry. There must be a spirit of cooperation and mutuality between employers and workers. We submit that production can be enhanced through the cooperation of management with the trade-union agencies which make for order, discipline and productivity.

We hold that the organization of wage-earners into trade-unions and the establishment of collective bargaining are the first steps toward the proper development of our industrial machinery for service.

To promote further the production of an adequate supply of the world's needs for use and higher standards of life, we urge that there be established cooperation between the scientists of industry and the representatives of organized workers.

Credit is the life-blood of modern business. At present under the control of private financiers it is administered, not primarily to serve the needs of production, but the desire of financial agencies to levy a toll upon community activity as high as "the traffic will bear."

Credit is inherently social. It should be accorded in proportion to confidence in production possibilities. Credit as now administered does not serve industry but burdens it. It increases unearned incomes at the expense of earned incomes. It is the center of the malevolent forces that corrupt the spirit and purpose of industry.

We urge the organization and use of credit to serve production needs and not to increase the incomes and holdings of financiers. Control over credit should be taken from financiers and should be vested in a public agency, able to administer this power as a public trust in the interests of all the people. \

Since the government has not worked out a constructive railroad policy, we urge for and on behalf of the railway workers and of the general public, that the railroads be retained under government administration for at least two years after January 1, 1920, in order that a thorough test may be made of governmental operation under normal conditions. The common carriers of this country are the arteries of travel, commerce and industry. Transportation service and rates are intimately bound up with industrial production in all parts of the country. It is essential that a thorough test be given to all phases of railroad control and operation before a definite peace-time policy be finally concluded.

Never has the world been confronted with a more serious situation. Millions are in want, facing starvation. The children of war-stricken Europe, half-fed, under-developed, appeal for help. Only with infinite pain, unnecessary loss of life and slowness of result can Europe rebuild her industries, restore her agriculture, and reestablish her commerce, without the help of America.

The treaty setting forth the terms of peace has not been ratified by the United States. Boundaries are not fixed. Peoples are uncertain as to their allegiance. Under such conditions exchange and credit have lost voltage and in turn have paralyzed industry.

As members of an organized labor movement that has for years maintained fraternal relations with the working people of Europe, we feel that our nation can not with honor and humanity maintain a policy of isolation and disinterestedness from the distress and suffering of the peoples of Europe. Even if the necessity of the peoples of Europe did not have a compelling appeal, the interrelated economic interests of the world would prevent our limiting our attention solely to this hemisphere.

The Peace Treaty includes provisions in an international agreement to prevent war among nations, with all its cruelties and sacrifices of human life, with its burden of indebtedness and taxation; for reduction in standing armies, the diminution of great navies, and the limitation of the production of arms and ammunition. If the Senate shall fail to

ratify the treaty of Versailles, our nation may be isolated from other countries of the world which at some time might be pitted against us. Such isolation and possibilities would make necessary the creation and maintenance of a large standing army and a greater and more effective navy in order in some degree to protect the Republic of the United States from aggression by those countries which were our allies in the great war and which were and are now our friends.

In addition, the workers of America have a deep interest and concern in the Labor Draft Convention of the Treaty and in its purposes to raise to a higher standard the conditions of life and labor among the peoples of all countries. Its cardinal declarations and provisions are, that labor should not be regarded as a commodity; that the eight-hour day and forty-eight-hour week are standard; that there shall be one day of rest, preferably Sunday, in each week; that child labor shall be abolished, and continuing education for young workers assured; that men and women shall receive equal pay for equal work; that industrial betterments shall be enforced by proper inspection, in which women as well as men shall take part; that wages shall be sufficient to maintain a reasonable standard of living, as this is understood in each time and country, and that employees as well as employers have the right of association for all lawful purposes.

The United States is protected by this draft convention in two ways: (1) That the recommendations which international labor conferences under the Treaty may recommend may be accepted or rejected by our government; (2) That no recommendation that would set a lower standard for the people of the United States than already exists within our borders can be at any time presented for consideration and action by the United States.

To give the united support of our Republic and of the allied countries to effective machinery to raise the standard of the workers' condition in backward countries, to help humanize industry for the common world weal, is, we insist, a paramount duty which our Republic must perform. We insist, for the reasons herein set forth, that it is the

immediate duty of the Senate to ratify the Treaty of Versailles.

The American labor movement resents the attempt of reactionaries and autocrats to classify the men and women of Labor with those groups which have nothing in common with its constructive purposes and high ideals, and with the fundamental principles of our country. Those who aim to strike a blow against the legitimate aspirations of the workers in their struggle for freedom and for a higher and a better life must be met and overcome.

We call upon all those who contribute service to society in any form to unite in the furtherance of the principles and purposes and for the rectification of the grievances herein set forth. We call especial attention to the fact that there is a great community of interest between all who serve the world. All workers, whether of the city or country, mine or factory, farm or transportation, have a common path to tread and a common goal to gain.

The issues herein enumerated require the action of our people upon both the economic and political field. We urge that every practical action be taken by the American Federation of Labor, with the cooperation of all other organized bodies of workers, farmers and sympathetic, liberty-loving citizens of the United States, to carry into effect the principles and purposes set forth in the declarations of this conference.

We call upon all to join with us in combating the forces of autocracy, industrial and political, and in the sublime task of ridding the world of the power of those who but debate its processes and corrupt its functions.

In all struggles for justice and human freedom, sacrifices have been made. Having made supreme sacrifices to crush militarism and political autocracy in Europe, America's workers will not surrender to political and industrial autocracy at home. In the struggle now before us, we will contest every effort made to fasten tyranny and injustice upon the people of our Republic. We are confident that freedom, justice and the opportunity for a better day and a higher life shall be achieved.

APPENDIX W

BUDGET FOR A GOVERNMENT EMPLOYEE'S FAMILY IN WASHINGTON, D. C.

This budget was prepared by the United States Bureau of Labor Statistics under the full title, "Tentative Quantity and Cost Budget Necessary to Maintain a Family of Five in Washington, D. C., at a Level of Health and Decency." The study was made in July and August, 1919, and the prices are as of August. The following reprint includes practically all of the published report except those portions dealing solely with the analysis and explanation of prices.

This report presents the results of a study made by the United States Bureau of Labor Statistics to determine the cost of maintaining the family of a Government employee in Washington at a level of health and decency. This involved two inquiries: (1) The establishing of a "quantity budget," *i. e.*, the number or quantity of the various things necessary to maintain the living level referred to; and (2) the ascertaining of the total cost of such a budget at the prices prevailing in Washington at the present time (August, 1919).

DIFFICULTY OF ESTABLISHING A PROPER BUDGET LEVEL

Previous studies of the subject have analyzed the conception of a budget level and have distinguished several levels. Some of the more important of these are as follows:

(a) *The pauper or poverty level.*—This represents roughly a standard of living just above where families receive aid from charity or where they run into serious debt.

(a) *The minimum of subsistence level.*—This is based essentially on mere animal existence and allows little or nothing for the needs of men as social creatures.

(c) *The minimum of health and comfort level.*—This represents a slightly higher level than that of subsistence, providing not only for the material needs of food, shelter,

and body covering, but also for certain comforts, such as clothing sufficient for bodily comfort and to maintain the wearer's instinct of self-respect and decency, some insurance against the more important misfortunes—death, disability, and fire—good education for the children, some amusement, and some expenditures for self-development.

Inasmuch as the primary aim of this study was to furnish information for use by the Joint Commission of Congress on Reclassification of Salaries, the minimum of health, decency, and comfort was kept in mind in determining the quantity budget and in selecting qualities and ascertaining prices of articles of the budget. Clearly neither a pauper budget level nor a mere subsistence level should or could be submitted. But, when the effort was made to go further than this, to determine a level above mere subsistence, but not so high as to be unreasonable for the purpose for which it was to be used, serious difficulties arose. Part of the difficulty was a matter of terminology. Phrases such as "a comfort level" or a "level of reasonable comfort" are by no means clear cut, and much discussion can arise as to just what particular "comforts" should be included.

BUDGET LEVEL USED IN THIS STUDY

Finally, after long consideration, it was decided to use as a working basis a budget level which can be best expressed perhaps by the phrase "a standard of health and decency." This phrase is not entirely precise in meaning. No phrase of the kind can very well be wholly satisfactory. The budget herewith suggested is intended to give to the average family, consisting of husband, wife, and three children below the age of 14 years—

(1) A sufficiency of nourishing food for the maintenance of health, particularly the children's health;

(2) Housing in low-rent neighborhoods and within the smallest possible number of rooms consistent with decency, but with sufficient light, heat, and toilet facilities for the maintenance of health and decency;

(3) The upkeep of household equipment, such as kitchen utensils, bedding, and linen, necessary for health, but with no provision for the purchase of additional furniture;

(4) Clothing sufficient for warmth, of a sufficiently good quality to be economical, but with no further regard for appearance and style than is necessary to permit the family members to appear in public and within their rather narrow social circle without slovenliness or loss of self-respect.

(5) A surplus over the above expenditures which would permit of only a minimum outlay for such necessary demands as—

- (a) Street car fares to and from work and necessary rides to stores and markets;
- (b) The keeping up of a modest amount of insurance;
- (c) Medical and dental care;
- (d) Contributions to churches and labor or beneficial organizations;
- (e) Simple amusements, such as the moving pictures once in a while, occasional street car rides for pleasure, some Christmas gifts for the children, etc.;
- (f) Daily newspaper.

THE STANDARD FAMILY

This budget has been worked out for a family consisting of husband, wife, and three dependent children—a boy of 11, a girl of 5, and a boy of 2 years of age. The number in the family and the ages of the children conform closely to the standards used by the Bureau of Labor Statistics and other investigators in the past. The determining factor in selecting the standard family, however, was the fact that a family of this particular size and composition represents actual existing families in the United States. The average number in the white families scheduled by the Bureau of Labor Statistics was 4.9 individuals (equivalent to 3.33 adult males), which corresponds very closely with the standard family of 5 individuals (equivalent to 3.35 adult males). The assumption that the three children of the family are, respectively, a boy aged 2 years, a girl aged 5 years, and a boy aged 11 years, is, of course, arbitrary and is solely for the purpose of making precise calculations as to food and clothing consumption. The children in this standard family are growing children, not yet able to add

anything to the family income, and not so expensive to maintain as they will become a few years later. This standard family is about half way between the family with no children and the family with grown children capable of self-support.

BUDGET OF HEALTH AND DECENCY NOT INTENDED AS AN IDEAL

It needs to be emphasized that the budget level adopted in the present study is in no way intended as an ideal budget. It was intended to establish a bottom level of health and decency below which a family can not go without danger of physical and moral deterioration. This budget does not include many comforts which should be included in a proper "American standard of living." Thus, no provision is directly made for savings other than insurance, nor for vacations, nor for books and other educational purposes.

On the other hand, a family with the items listed in this budget should be able to maintain itself in health and modest comfort. It would have a sufficiency of food, respectable clothing, sanitary housing, and a minimum of the essential "sundries."

THE COST OF A BUDGET LEVEL NOT NECESSARILY A FIXED MONEY COST

The annual expense of maintaining the budget level above described may be arrived at by obtaining and totaling the current prices on each of the individual items entering into the budget. This has been done as part of the present study and a total figure arrived at which measures the annual money cost of all the budgetary items at the prices now prevailing in Washington, D. C.

It is highly important to note, however, that the maintenance of living on the level indicated does not necessarily require the receipt of an annual income of precisely this amount. This is so for several reasons. Thus, the family here used as a basis of computation is one consisting of husband, wife and three dependent children, eleven, five and two years old. A newly married couple does not start house-keeping with a family of three children. It is assumed that

before marriage and in the early years of marriage savings will have been accumulated either in the form of money savings, household equipment, or partial ownership of a home. These accumulations must be depended upon to tide the family over the period when the children become the greatest burden, just before the oldest one is able to earn his own support in whole or in large part. This budget assumes the existence of an equipment of household furniture, as it is generally true that married couples do purchase the major part of their household furniture either at marriage or shortly thereafter. If the family has savings invested, the family income is supplemented by the amount of interest received; if the house is owned, the cost of the budget level here provided for would be reduced by the saving in the expenditure for rent. Another factor tending to reduce the cost of the budget below the market cost of the individual items is the extraordinary ingenuity of most families in economizing, particularly when the need for the closest economy is regarded as only of temporary duration. This ingenuity expresses itself in many ways, and, for the most part, ways which a budget study such as the present one can not specify or estimate. The average housewife is not a perfect cook, a perfect seamstress, or a perfect "shopper," nor does she have time, even if she has the ability, to attain 100 per cent efficiency in cooking, tailoring, shopping, and the many other skilled trades which she must practise as time and capacity permits. On the other hand, almost every housewife does possess certain abilities along one or more lines and by the exercise thereof is able to reduce expenditures along these lines to below the average. However, no housewife can reasonably be expected to perform more than one miracle of domestic economy each day.

In many families the husband, and even the children, are able to contribute certain services—such as marketing, housework, repairs of household—which may reduce the need for actual money expenditures or may permit the housewife to do a greater amount of sewing, such as the making over of garments.

In these and many other ways families are often—it might even be said usually—able to maintain a decent stand-

ard of living at a somewhat lesser cost than the market prices of the budgetary items. Clearly these economies can be effected only at considerable sacrifice of time and convenience, and the possibilities of such economies are often greatly overestimated. The not infrequent criticism of standards of living studies that families do actually live on smaller incomes than those indicated is, in itself, not a valid criticism. Families may and do live, altho underfed, underclothed, unhealthily housed, overworked, especially the wife and mother, and deprived, particularly the children, of many things essential to the development of healthy and useful citizens. . . .

SUMMARY OF BUDGET

Cost of quantity budget at market prices

I. Food	\$773.93
II. Clothing:	
Husband	\$121.16
Wife	166.46
Boy (11 years).....	96.60
Girl (5 years).....	82.50
Boy (2 years).....	47.00
	<hr/>
III. Housing, fuel, and light.....	513.72
IV. Miscellaneous	428.00
	<hr/>
	546.82

Total budget at market prices.....\$2,262.47

Possible saving upon market cost by a family of extreme thrift, of high intelligence, great industry in shopping, good fortune in purchasing at lowest prices, and in which the wife is able to do a maximum amount of home work:

I. Food (7½ per cent).....	\$58.04
II. Clothing (10 per cent).....	51.37
III. Housing	30.00
IV. Miscellaneous	107.50

Total economies..... 246.91

Total budget minus economies.....\$2,015.56

Savings.—No provision is made in this budget for savings, other than the original cost of household furniture and equipment, which would average about \$1,000 in value.

No definite estimate, of course, can be made as to the amount which a low-salaried Government employee should be expected to save. But an average saving of $12\frac{1}{2}$ per cent of yearly salary during an employee's single and early married life would seem to be the maximum which could be expected. Over a period of, say, fifteen years this would result in a total accumulation of about \$2,000. Assuming \$1,000 of this to be invested in household equipment, there would be a net sum of \$1,000 available for investment in a home or in other direct income-producing form. In any case, it would represent an annual income of approximately \$50.

Itemized Details of Budget

I. FOOD

Item	Unit of usual purchase	Weekly quantity per family of 3.35 equivalent adult males	Weekly cost
Beef and veal, fresh*.....	Pound	4.35	\$1.64
Beef, salt*	do.	.38	.14
Pork fresh*	do.	.74	.38
Pork, salt, including smoked ham and bacon*	do.	1.03	.53
Mutton*	do.	.60	.22
Poultry*	do.	.52	.24
Other meat, including sausage, dried beef, etc.*	do.	.66	.25
Fish and other sea food*.....	do.	1.31	.39
Eggs	Dozen	1.31	.79
Milk, sweet, and buttermilk†	Quart	8.86	1.35
Cream	Pint	.06	.02
Milk, condensed	Pound	1.25	.25
Butter and oleomargarine.....	do.	1.87	1.18
Cheese	do.	.38	.19
Tea	do.	.19	.15
Coffee and substitutes.....	do.	.78	.41
Sugar	do.	3.13	.34
Molasses, including sirup and honey..	do.	.68	.12

I. FOOD—Continued

Item	Unit of usual purchase	Weekly quantity per family of 3.35 equivalent adult males	Weekly cost
Lard and compounds.....	do.	1.10	.44
Flour	do.	7.50	.60
Corn meal	do.	1.23	.07
Bread‡	do.	9.66	1.01
Rice	do.	.85	.14
Cereals	do.	2.21	.33
Fruits, fresh.....	do.	7.71	.70
Fruits, dried and canned.....	do.	.70	.18
Potatoes	Peck	.95	.71
Other vegetables, fresh and dried....	Pound	10.89	.88
Other vegetables, canned.....	do.	.84	.24
Other food§	do.	1.83	.66
Weekly total.....	.....	.....	||\$14.55
Yearly total.....	.....	.....	||\$755.93
Ice .....	.....	.....	18.00
Total.....	.....	.....	\$773.93

II. CLOTHING

Article of clothing	Unit price	Replacement per year	Yearly cost
HUSBAND			
Hat, felt.....	\$4.00	½	\$2.00
Hat, straw.....	2.00	1	2.00
Suit, winter (wool).....	40.00	½	20.00

* Total meat and fish equivalent to 1.37 pounds per day.

† Equivalent to 1.27 quarts of milk per day.

‡ Equivalent to 1.38 pound loaves of bread per day.

§ Including crackers, cake, pies, ice cream, candy, jelly, oil, chocolate, peanut butter, cocoa, nuts, gelatin and canned soup.

|| The weekly quantity budget has been drafted from the year's budget, which explains the slight difference in cost between the weekly total and the yearly total.

II. CLOTHING—Continued

Article of clothing	Unit price	Replacement per year	Yearly cost
HUSBAND—Concluded			
Suit, summer (wool).....	\$40.00	$\frac{1}{2}$	\$20.00
Overcoat	40.00	$\frac{1}{4}$	10.00
Raincoat	15.00	$\frac{1}{6}$	2.50
Shirts, cotton	2.00	5	10.00
Union suit, summer.....	1.50	3	4.50
Union suit, winter (part wool)	3.50	1	3.50
Pajamas	2.50	1	2.50
Socks, cotton.....	.50	12	6.00
Shoes:			
High	7.50	1	7.50
Low	7.50	$\frac{1}{2}$	3.75
Shoe repairing:			
Whole soles.....	3.50	1	3.50
Half soles, including heel....	2.50	1	2.50
Rubbers	1.25	$\frac{1}{2}$	.63
Gloves, kid.....	3.00	$\frac{1}{2}$	1.50
Collars .....	.25	12	3.00
Ties .....	.50	3	1.50
Hankerchiefs .....	.25	8	2.00
Garters .....	.35	2	.70
Belt	1.50	$\frac{1}{3}$	.50
Suspenders .....	.75	1	.75
Umbrellas	4.00	$\frac{1}{3}$	1.33
Cleaning, pressing.....	1.50	4	6.00
Miscellaneous .....	.....	.....	3.00
Total.....	.....	.....	\$121.16
WIFE			
Summer clothing			
Hat	\$7.50	1	\$7.50
Wash skirt	5.00	$\frac{1}{2}$	2.50
Waists, cotton (to be made at home)	2.50	3	7.50
Waist, dress.....	7.50	$\frac{1}{2}$	3.75
Dresses, cotton, thin (to be made at home).....	5.00	2	10.00

II. CLOTHING—Continued

Article of clothing	Unit price	Replacement per year	Yearly cost
WIFE—Concluded			
Underwear (separate garments or union suits).....	\$ 1.00	3	\$ 3.00
Petticoats, cotton, muslin.....	2.00	1	2.00
Shoes, low.....	8.50	1	8.50
Gloves, cotton.....	1.00	1	1.00
Winter clothing			
Hat	10.00	$\frac{1}{2}$	5.00
Suit, wool.....	53.00	$\frac{1}{2}$	26.50
Dress, wool serge.....	25.00	$\frac{1}{2}$	12.50
Coat, wool.....	50.00	$\frac{1}{3}$	16.66
Petticoat, dark cotton.....	3.00	1	3.00
Underwear (union suit, part wool)	3.00	1	3.00
Shoes, high.....	9.50	1	9.50
Gloves, kid.....	2.50	$\frac{1}{2}$	1.25
Year-round clothing			
House dresses	3.00	2	6.00
Apron, kitchen.....	.60	1	.60
Corset (standard make).....	6.00	1	6.00
Corset covers.....	.85	3	2.55
Brassieres .....	.50	2	1.00
Night dresses.....	1.50	2	3.00
Kimono	4.50	$\frac{1}{2}$	2.25
Stockings, cotton.....	.65	8	5.20
Shoe repairing:			
New heels.....	.40	3	1.20
Whole soles.....	3.00	1	3.00
Handkerchiefs .....	.25	8	2.00
Umbrella	3.00	$\frac{1}{3}$	1.00
Rubbers	1.50	1	1.50
Cleaning and pressing.....	3.00	1	3.00
Miscellaneous .....	.....	.....	5.00
Total.....	.....	.....	\$166.46
Boy, 11 YEARS OF AGE			
Caps or hats.....	\$1.00	2	\$2.00
Suit, wool.....	16.00	1	16.00

II. CLOTHING—Continued

Article of clothing	Unit price	Replacement per year	Yearly cost
Boy, 2 Years of Age—Con.			
Pants, separate, wool (winter)	\$ 3.00	1	\$ 3.00
Pants, separate, wool and cotton (summer).....	2.00	2	4.00
Overcoat	12.50	$\frac{1}{2}$	6.25
Sweater	6.00	$\frac{1}{2}$	3.00
Overalls	1.25	1	1.25
Shirts or blouses, cotton.....	1.15	5	5.75
Summer underwear (union suits)	1.00	3	3.00
Winter underwear (union suits)	3.00	2	6.00
Pajamas or nightshirts.....	1.00	2	2.00
Stockings .....	.60	12	7.20
Shoes:			
High	5.00	3	15.00
Low	3.00	2	6.00
Shoe repairing (whole soles)..	2.00	5	10.00
Rubbers	1.00	1	1.00
Gloves or mittens.....	.50	2	1.00
Collars .....	.25	3	.75
Ties .....	.50	2	1.00
Handkerchiefs .....	.10	6	.60
Garters .....	.25	2	.50
Belt .....	.60	$\frac{1}{2}$	.30
Miscellaneous .....	.....	.....	1.00
Total.....	.....	.....	\$96.60
GIRL, 5 YEARS OF AGE			
Hat, summer.....	\$5.00	1	\$5.00
Cap or hat, winter:			
Cap	2.00	1	} 2.00
Hat	5.00	$\frac{2}{3}$	
Dresses, cotton (to be made at home)	2.25	6	13.50
Dress, wool (to be made at home)	6.00	$\frac{1}{2}$	3.00
Apron (to be made at home)..	1.00	1	1.00
Coat	15.00	$\frac{1}{2}$	7.50
Sweater	4.00	$\frac{1}{2}$	2.00

II. CLOTHING—Continued

Article of clothing	Unit price	Replacement per year	Yearly cost
GIRL, 5 YEARS OF AGE—Con.			
Cotton petticoats:			
Muslin	\$ 1.00	2	\$ 2.00
Outing flannel.....	1.50	1	1.50
Summer underwear:			
Shirts .....	.50	3	1.50
Drawers, muslin .....	.30	5	1.50
Underwaists .....	.75	4	3.00
Winter underwear:			
Shirts, wool.....	1.50	2	3.00
Drawers, wool.....	1.50	2	3.00
Nightdresses:			
Muslin	1.00	1	1.00
Outing flannel.....	1.25	1	1.25
Stockings, cotton.....	.40	12	4.80
Shoes:			
High	4.00	3	12.00
Low	3.00	3	9.00
Rubbers .....	.85	1	.85
Mittens .....	.50	1	.50
Handkerchiefs .....	.10	6	.60
Garters .....	.25	2	.50
Miscellaneous .....	.....	.....	2.50
Total.....	.....	.....	\$82.50
BOY, 2 YEARS OF AGE			
Hats or caps:			
Hat, duck.....	\$.50	1	\$.50
Cap .....	.75	1	.75
Dresses, cotton suits, rompers, overalls, etc. (to be made at home)	1.00	8	8.00
Overcoat	12.00	$\frac{1}{2}$	6.00
Sweater	3.50	$\frac{1}{2}$	1.75
Summer underwear:			
Undershirts .....	.50	3	1.50
Drawers, muslin.....	.30	3	.90
Underwaists .....	.65	4	2.60

II. CLOTHING—Concluded

Article of clothing	Unit price	Replacement per year	Yearly cost
Boy, 2 YEARS OF AGE—Concluded			
Winter underwear:			
Undershirts	\$ 1.00	2	\$ 2.00
Drawers	1.00	2	2.00
Nightdresses:			
Muslin	1.00	1	1.00
Outing flannel.....	1.25	1	1.25
Stockings and socks, cotton....	.39	10	3.90
Shoes:			
High	3.50	2	7.00
Low (sandals).....	3.00	2	6.00
Mittens .....	.35	1	.35
Garters .....	.25	2	.50
Miscellaneous .....	.....	.....	1.00
Total.....	.....	.....	\$47.00

III. HOUSING, FUEL, AND LIGHT..... \$428.00
 (This item covers rent at \$300 a year, and fuel and light at \$128 a year.)

IV. MISCELLANEOUS

Upkeep of house, furniture, and furnishings.....	\$ 70.00
Laundry work	104.00
Cleaning supplies and services.....	32.92
Health	80.00
Insurance:	
(a) Life (disability).....	110.00
(b) Furniture	1.50
Car fare:	
Husband, 600 rides.....	30.00
Wife and children, 300 rides.....	15.00
Amusements and recreation.....	20.00
Newspapers	8.40
Organizations:	
(a) Church	13.00
(b) Labor	10.00
Incidentals	52.00
	<hr/>
	\$546.82

DETAILED DATA UPON WHICH BUDGET IS
BASED

I. Food

In the determination of a proper family dietary there are two standards which must be assumed at the beginning, (1) the scientifically established food requirement in calories per day, and (2) the commonly recognized unit of measure of the size of family in equivalent adult males.

Various scientific students of food have estimated that the number of calories needed by a man at moderately hard muscular work is 3,500 per day. A family usually wastes about 10 per cent of the caloric value of food in preparation, cooking, etc., and also a small per cent of the food which enters the mouth is not digested or assimilated. Therefore, 3,500 calories purchased represents approximately 3,100 to 3,200 calories actually consumed by the body. The standard of 3,500 calories is for a man at moderately hard muscular work, and since most Government clerks are engaged in very light muscular labor the 3,100-3,200 calories would appear to be sufficient. On the other hand, when Government employees are taken as a whole, and when those who are engaged in moderately hard physical work in the Government Printing Office and the Bureau of Engraving and Printing are taken into consideration, the allowance of 3,500 calories purchased to yield 3,100-3,200 seems to be none too high.

The standard of a definite number of calories per man per day makes it necessary to ascertain the food requirements of the other members of the family and convert them into terms of a common unit of measurement, namely, the equivalent adult male. In order to make precise calculations, the following food budget has been drawn up on the basis of a family of five—husband, wife, and three children, boy, aged 11; girl, 5, and boy, 2. According to the standard established by the United States Bureau of Labor Statistics, taking the caloric requirement of a man as 1.0, that of a woman is 0.9; a boy of 11 years, 0.9; a girl of 5 years, 0.4; and a boy of 2 years, 0.15. The combined food requirements of this family, which is considered an average-sized family

and has been taken as a normal family, would be equal to that of 3.35 adult males.

The quantity food budget submitted here as representing the minimum food requirements of a family of five was obtained by averaging the actual amounts of food used by 280 selected families with three children of about the ages indicated. The families chosen from each city averaged in size approximately 3.35 equivalent adult males, and 3,500 calories of food purchased per man per day. On further detailed analysis, and by comparison with a recognized standard, the average dietary of 3,500 calories thus obtained was found to consist of meat, milk, vegetables, etc., in such proportions as to furnish the body in a general way with the necessary amounts of proteins, fats, carbo-hydrates, mineral constituents, acids, and other substances necessary for the maintenance of health. Following is a comparison of the food allowance of this budget with the minimum standards generally accepted by scientific students of the subject:

OUNCES OF FOOD CONSUMED PER MAN PER DAY

	Meat	Fish	Dairy Products	Milk	Cereals	Vege- tables	Fruits	Fats	Sugar
Average of 280 families.	5.6	0.9	15.5	12.1	15.1	17.6	5.8	2.1	2.7
Standard . . .	4 or 5	2	16	11 or 12	12	16 or 20	16 or 20	2	2

The 280 food budgets used in obtaining this average were selected from family schedules collected by the Bureau of Labor Statistics in the recent cost-of-living survey of the United States. These schedules were taken in great detail, giving, among other things, the amount of each article of food purchased for a year for each family scheduled. The 280 budgets used in this detailed caloric analysis were made up from about 25 cases from each of 11 representative cities.

It would, of course, have been preferable to analyze in detail 280 food budgets collected from families in the District of Columbia, but the time allowed for the present mini-

mum budget prohibited any such plan. It seems likely, however, that the average dietary here presented is not far from correct. By taking an average of families located over a considerable area, all local peculiarities and extreme tastes should have been smoothed out. The applicability of this average budget to the city of Washington is further substantiated by the fact that the population here is unusually cosmopolitan, due to the working of the apportioned civil service.

Another possibility would have been to use accepted standards as a guide and construct a dietary composed of meats, vegetables, milk, etc., which would meet the ideal requirements. This method, however, would have been difficult, more or less arbitrary, and subject to the criticism that it would not meet the actual desires and peculiarities of people as they are. Of course, the average dietary has its obvious defects, and is not recommended as ideal. For instance, it is highly desirable, from both an economical and a dietary standpoint, for a family to secure its protein by the use of more eggs and less meat than the quantities used in the average budget. As here presented, the food budget which has been arrived at is based on what the experience of a large number of families in various sections of the country shows to be a practical minimum for the maintenance of health. That the selection of foodstuffs is probably as economical as is consistent with a fairly balanced diet is indicated by the fact that the families whose dietaries are here used were all workingmen's families in moderate circumstances. . . .

II. CLOTHING

The quantities of the different kinds of clothing required by the standard family have been arrived at by personal interviews with Government employees and their wives and others familiar with the standard of living required of the Government worker's family in Washington, and have been checked with several previous studies, particularly with the clothing budgets of approximately 850 families with children under 15 secured by the Bureau of Labor Statistics in 1918-19.

In preparing the following budget the quantity of clothing based on length of wear has been made fundamental and agreed upon before tabulating prices. The quantities listed in the budget are for annual replacements, and it has been assumed that the amounts listed will be supplemented by the "holdover" of similar garments from the previous year. In the case of a garment which may be expected reasonably to last over a period longer than one year, the annual amount has been expressed in a fraction, *i. e.*, a coat to be worn two years, as $\frac{1}{2}$; three, as $\frac{1}{3}$, etc.

A few possible alternatives have been suggested, and individual tastes will, of course, make other changes and adjustments necessary for each family.

In preparing this quantity budget a considerable amount of sewing at home has been assumed as possible, and has been indicated accordingly. When more than the specified amount is done, a saving may be effected, or the family clothed more abundantly. On the other hand, where little or no home sewing can be done, economy will need to be practised in the number of garments or along other lines.

Theoretically, the level of health and decency in clothing has been interpreted as a level which takes into account not only the physical needs of warmth, cleanliness and comfort, but which also has such regard for appearance and style as will permit the family members to appear in public, and within their necessarily rather narrow social circle, with neatness and self-respect. In other words, the clothing standards of the family should provide a fair degree of that mental satisfaction which follows from being reasonably well-dressed. But while admitting the desirability of this more generous wardrobe, an effort has been made to allow only those quantities of clothing consistent with the *minimum* requirement for health and decency, and, where a doubt has existed, to err on the side of conservatism rather than to present an opportunity for the criticism of extravagance. So emphatic, however, have been the expressions of some who feel that a decided error has been made on the side of rigid economy that a supplemental list of highly desirable additions to the wife's clothing has been prepared and made a part of this report. . . .

Supplemental List of Wife's Clothing

The clothing budget has been cut down to what amounts to almost a subsistence budget. In the case of the wife, it would be highly desirable from the point of view of comfort and of the standard expected of the wife of a Government employee that she be allowed at least \$50 more per year on her clothing budget. The prices given presuppose more time to hunt for good values than the average mother of three children can afford. She is allowed no furs, and the suit allowed is of rather light weight, so that for the sake of her own health it would be much better if she could afford to buy a better coat for winter wear.

She has been allowed only one afternoon dress of wool to last two years, and she has been allowed no dress petticoat to wear with it. It would be much more satisfactory if she were allowed one jersey-silk petticoat a year. This would cost a little more than the cotton one, but would combine comfort and durability. It is questionable if the georgette waist allowed every other year can be made to last two years even with the most careful laundering and this is her only fancy blouse. The same is true of the two cotton house dresses allowed.

The wife has been allowed one wool dress every two years for afternoon or evening wear. Aside from her suit and georgette blouse this wool dress is the only garment she has to wear to social affairs of the church and community. A wool dress is essentially a business or street dress, being too heavy and somber for afternoon or evening wear. A silk dress would be a much more satisfactory article with which to supplement her suit and georgette blouse during the second season's wear, when they have grown somewhat worn and shabby. The substitution of a silk dress in place of wool serge will add only \$7.50 annually to the wife's clothing budget, as silk dresses of fair quality can be bought in the Washington stores for \$40.

Only two night dresses a year have been allowed, and these will be insufficient if she has any illness during the year.

A winter hat has been allowed only every other year and no allowance has been made for retrimming. Without

retrimming it will be out of style by the second year, and while the average woman should not and will not desire to wear extreme styles, neither will she wish to be conspicuous because her clothing is entirely out of the prevailing mode.

It would be highly desirable from the standpoint of comfort, and probably of economy, if the wife were allowed two pairs of silk stockings each year. The cotton stockings on the market are of poor grade and high price at the present time and neither so comfortable nor neat looking as the silk hose.

The shoes allowed are heavy walking shoes. It would add to the wife's comfort if she were allowed one pair of dress shoes at least every other year. No allowance has been made for house slippers, and this means that she must make her low shoes of the previous year hold over for this purpose.

The \$5 allowance for miscellaneous items is very small when the simplest collar and cuff set is at least a dollar, when hair nets that last only a few days are 12½ cents each, and when all other miscellaneous items have doubled in price. It would appear that an allowance of \$10 would more nearly meet her needs for miscellaneous items.

ADDITIONAL LIST OF DESIRABLE ARTICLES FOR WIFE'S CLOTHING

Article	Quantity allowed	Quantity desirable	Additional cost to yearly budget
Winter hat.....	½	1	\$ 5.00
Better quality winter coat.....	⅓	⅓	8.33
Silk petticoat.....	0	1	6.00
Silk stockings.....	0	2	3.00
Crepe de chine or georgette blouse.	½	1	3.75
Night dresses.....	2	3	1.50
House dresses.....	2	3	3.00
Dress shoes.....	0	½	6.00
House slippers.....	0	½	1.00
Miscellaneous.....	(*)	(*)	5.00
Substitution of silk dress for serge.	½	½	7.50
Total.....			\$50.08

(*) Amount allowed, \$5; amount desirable, \$10.

III. HOUSING, FUEL AND LIGHT

Annual cost of rent, fuel, and light.....\$428

Housing standard.—The minimum housing standard for a family of five has been taken as one of four rooms with bath and running water. The possession of a bath and running water is necessary to health and cleanliness. Moreover, at the present time practically all houses and apartments in Washington are supplied with these conveniences, except very old structures, which even in other respects can not be accepted as offering decent and healthful housing. The possession of four rooms is absolutely necessary to a family of five to prevent extreme overcrowding, and is, of course, the barest minimum. It would mean a kitchen, a combined living and dining room, and two bedrooms, with the necessity in many cases of the combined living and dining room being also used as a sleeping room. For the particular family used in this study as a type, five rooms and bath would be the only comfortable minimum. In any case, this strict minimum can apply only to apartments. The standard small house in Washington is one of six rooms. Houses of four and five rooms (except some very modern suburban bungalows) are almost entirely very old structures without modern conveniences.

Fuel and light standard.—Certain previous attempts to erect budgetary standards have assigned a specific amount of fuel and light as a minimum—such, for instance, as one ton of coal per room per year. This method, however, is not very satisfactory, especially in a city like Washington, where apartment living is so prevalent. Therefore, in the present study it has seemed better to base the minimum on the usual expenditures for fuel and light, during the past year, by families housed according to the minimum housing standards here adopted and which were not extravagant in their use of fuel and light. By using this method the difficulty is avoided of trying to erect minimum quantity standards for various sizes and kinds of coal, and various lighting systems—gas, electricity, and kerosene. The choice

among the articles usually does not depend upon the desire of the occupant, but upon the character of the house. . . .

IV. MISCELLANEOUS EXPENSES

Upkeep of house furniture and furnishings.....\$70

The budget here prepared regards the initial furnishing of a house with the more durable articles of furniture as a matter which the prudent man and woman should attend to at the beginning of their married life before they have the burden of a large family, and therefore as an expense which need not be counted in attempting to fix a living budget for a family when it is at its period of maximum expense.

However, the upkeep of house furnishings, such as bedding, towels, and kitchen and table ware, and also the replacement of worn-out furniture, is a necessary, recurrent expenditure. Investigation and study of existing data indicate that the cost of such upkeep approximates six per cent of the total value of the furniture and furnishings of the usual household of persons in moderate circumstances.

A special investigation was made by agents of the Bureau of Labor Statistics to determine the minimum amount of furniture and furnishings necessary for a small house or apartment. Prices on this minimum amount were secured from Washington stores in August, 1919, and found to total \$1,083. Even with the closest economy in buying, including the purchase of some second-hand furniture, this total could not well be reduced below \$1,000. For annual upkeep 6 per cent of this amount, or \$60, would be necessary. About \$10 or \$11 a year additional is required for gas mantles for electric bulbs, curtains, and a few other articles which could not be estimated quantitatively. This would make the total minimum annual expenditure for upkeep of house furnishings \$70.

Laundry work, assistance with washing, 1 day per week....\$104

In the family of five used as a basis in the present budget estimates, the wife is presumed to do the cooking for the

family, to do the cleaning of the house or apartment, to make most of the simpler garments worn by herself and the children, to keep all clothes in repair, to care for the children, and to do the marketing. It would seem unreasonable to expect that in addition she should do the laundry work entirely unassisted. Therefore, this budget has allowed for the assistance of a person for one day each week and \$2 per day seems to be the prevailing rate in Washington for service of this kind.

Cleaning supplies and services.....\$32.92

The following seems to be the minimum requirement of cleaning supplies and services to insure personal and household cleanliness. (Mops, brooms and brushes are included under furnishings.)

Cleaning Supplies and Services	Unit price	Quantity	Total cost
Personal:			
Toilet soap, small bar Ivory....	\$0.07	70	\$4.90
Toothbrush .....	.25	5	1.25
Toothpaste, tube or box.....	.25	12	3.00
Combs, hard rubber.....	.50	1	.50
Hairbrushes	1.50	½	.75
Shoe polish, box.....	.15	6	.90
Barber's services:			
Husband, hair cut.....	.50	12	6.00
Children, hair cut.....	.40	8	3.20
Household:			
Laundry soap, ½-lb. bar.....	.06	120	7.20
Starch, pound .....	.07	6	.42
Cleanser, box.....	.05	36	1.80
Unspecified cleaning supplies and services, such as borax, ammonia, washing powder, bluing, insect powder, etc.			3.00
Total.....			\$32.92

Health\$80

Some allowance must of course be made for the maintenance of health. This expenditure includes physician, dentist, oculist, glasses, and drugs, both prescriptions and prepared remedies.

No definite number of visits to the doctor can be assumed as necessary, but aside from the occurrence of major illnesses, colds and the various diseases of childhood will doubtless make a doctor's services necessary at some time during the year. Not only will this item have to provide for prescriptions, but also for the various family remedies.

At least one visit to the dentist during the year for three members of the family will be necessary, and rarely does one visit prove sufficient.

In the absence of any known quantitative measurement, it has been felt that the most accurate figure will be the average amount spent by families of Government employees.

A special investigation of the expenditures of sixty-four families during the year ending July 31, 1919, shows the average expenditures for doctor, dentist, oculist, and other items necessary for the maintenance of health to have been \$90.37. The year covered by these expenditures, however, included the "flu" epidemic of last autumn and winter, which undoubtedly added to the average expense of medical attention and medicine. For this reason it has seemed reasonable to fix the health allowance in this budget at \$80.

Insurance: (a) Life, \$5,000 ordinary policy, yearly premium.\$110

It is a generally accepted fact that the male head of a family should carry insurance on his life to protect his wife and children in the event of his death. In order to do this it is necessary that the yearly income be sufficient to meet the yearly insurance premiums. The only question would seem to be as to the amount of insurance which should be carried. It would seem that a \$5,000 policy would be the minimum for protection and safety. In the event of the husband's death this would assure an income

to the wife and children of not over \$300 per year, or \$6 per week. . . .

Insurance: (b) Furniture.....\$1.50

Furniture insurance is a cheap form of insurance which it is highly important that every family should carry, as the loss of household equipment is an extremely serious matter to a family of low income. Inquiry made of the Underwriters' Association of the District of Columbia shows that the annual premium on \$100 worth of furniture (in a brick house) is 15 cents per year when paid for a period of five years.

Insurance on \$1,000 worth of furniture, which would be about the average value of furniture of the type of family had in mind in this study, would be \$1.50.

Car fare, 900 rides.....\$45

There are many Government employees in Washington who live so near their offices that car fare is an expense that need rarely be incurred. On the other hand, the large area covered by the city and its suburbs makes it absolutely necessary for a considerable portion of the employees to ride to and from their work, and for another portion to ride at least a part of the time. In view of this, it seems reasonable to allow the husband two car rides per day for each working day, or 600 rides in total.

Approximately three trips per week on the street car have been allowed for the wife and children. Local open markets within easy walking distance are available to comparatively few families in Washington, and many who walk one way must take a car home after the market basket has been filled. In addition to this, the mother of three children will need to make occasional trips to the stores in the central part of the city to purchase clothing for the family, and it will be necessary usually for her to take the two- and five-year-old children, involving two car fares. It is assumed that the children will be able to walk to and from school.

Computation of the cost of street car fare has been made on the basis of the 5-cent fare, as no reliable data exists as to the use of transfers, for which a charge of 2 cents is made in Washington.

Amusements and recreation.....\$20

The importance of recreation as a factor in healthy living need not, of course, be emphasized. It is accepted as an everyday fact. The only question is as to the character and cost of such recreation. Much wholesome amusement arises naturally within the circle of a family and its friends and costs nothing. On the other hand, the complexity of modern city life places a money price on many simple and desirable forms of amusement. Thus a picnic for a family, or a visit to the park, involves a considerable item of car fare, while a trip on the river will cost a dollar or more. Moreover, occasional visits to the moving pictures are to be expected of at least some members of a family. Thus, even though the more expensive forms of amusement and recreation, such as summer vacations, are eliminated, some expenditures for this item are absolutely necessary if a family is not to lead a completely isolated life.

It is impossible, however, to establish quantity standards for amusements and recreations. The most reasonable method would, therefore, seem to be to use as a guide the average amount expended by families of Government employees. A special investigation of expenditures of sixty-four families of Government employees in Washington shows that their average expenditure for amusements and recreation during the year ending July 31, 1919, amounted approximately to \$20. On the average these families had expended a similar amount on vacations, but no allowance for vacation has been made on this budget.

Newspapers1 daily newspaper, \$8.40

A newspaper, daily and Sunday issues, is placed in the budget because it is desirable that every citizen should read a daily paper. In addition, the modern newspaper offers a

variety of literary and educational features at a minimum expense.

No allowance is made for magazines or books, not because the reading thereof is not desirable, but because a family, forced to careful economy, may avail itself of the public libraries for all forms of literature.

The yearly subscription rates of the Washington newspapers vary slightly, with \$8.40 as the minimum. It is felt that the maximum should be allowed in order to permit the reader his choice of newspapers.

Organizations, such as the church and labor unions, play such an important part in the life of the average worker and his family that some expenditure on this account must be regarded as essential to normal living. In the present budget expenditures for this purpose are accepted as necessary for the majority of families only in the case of the church and labor organizations; membership in other organizations, such as the Red Cross Society, the Young Men's Christian Association, and social clubs may be very desirable, but cannot be regarded as necessary for a family with low income.

(a) Church and other religious organizations.....\$13

Membership in, or regular attendance at a church almost compels contributions in one form or another. Not to be able to contribute usually makes the individual feel so "uncomfortable" that he feels unwilling to attend church or to send his children to Sunday school. Just what the minimum desirable contribution should be is difficult to determine. In any case, a family contribution of 25 cents a week would seem to be a bare minimum.

(b) Labor organizations.....\$10

Membership in a labor organization always involves contributions to its support in the form of dues. The amount of these dues varies according to the organization. The craft unions to which many employees in the navy yard and other mechanical divisions belong have as a rule con-

siderably higher dues than the clerical workers' organizations. In the absence of other data, it would seem that the most reasonable method of arriving at a minimum allowance for this purpose would be to use as a guide the average amount actually paid for labor organization dues by Government employees in Washington during the past year to have been \$10.08.

Incidentals\$52

In addition to the expenditures listed above there are a large number of other items, mostly small or occasional, which cannot be entirely avoided by a family—such, for instance, as moving expenses, burial expenses, stationery and postage, telephoning or telegraphing at times, patriotic contributions, and charity. Also a few minor comforts—such, perhaps, as tobacco—are almost in the category of necessities for certain people. No minimum quantities for these items can possibly be specified. The only solution is to grant a modest sum of money as a maximum to cover expenditures for all incidentals.

The amount granted by this budget is \$1 per week.

APPENDIX X

KENYON BILL TO REGULATE COAL INDUSTRY

IN THE SENATE OF THE UNITED STATES

FEBRUARY 13 (calendar day, FEBRUARY 14), 1922

Mr. KENYON introduced the following bill: which was read twice and referred to the Committee on Education and Labor

A BILL

To provide for the settlement of disputes between employers and employees in the coal mining industry; to establish a board for the adjustment of such disputes; to stabilize conditions of production; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
That this Act shall apply to all employers and employees, as hereinafter defined, engaged in production of coal intended for or entering into interstate or foreign commerce.

DEFINITIONS

SEC. 2. When used in this Act—

(1) The term "coal" includes anthracite, bituminous, and all other varieties of coal.

(2) The term "operator" and the term "employer" means any person, corporation or company engaged in the mining of coal.

(3) The term "employee" includes all persons employed for wages or salaries working in and about any coal

mining operation except those employees commonly known as subordinate officials.

(4) The term "Labor Board" means the "National Coal Mining Board" established by this Act.

(5) The term "commerce" means commerce among the several States or between any State, Territory, or the District of Columbia and any foreign nation, or between any Territory or the District of Columbia and any State, or between any Territory and the District of Columbia, or within any Territory or the District of Columbia, or between points in the same State but through any other State or any Territory or the District of Columbia or any foreign nation.

SEC. 3. That it shall be the duty of both operators and employees to exert every reasonable effort and adopt every available means to avoid any interruption to the operation of any coal mine, with relation to which this Act applies, growing out of any dispute between employer and employees. All such disputes shall be considered and, if possible, decided in conference between representatives designated and authorized so to confer by the employers and employees directly interested in the dispute. If any dispute is not decided in such conference, it shall be referred by the parties thereto to the Labor Board.

SEC. 4. That to interpret and apply the principles enumerated hereafter and to hear and to render decision in any difference or controversies that may arise between employers and employees in the coal mining industry there is hereby established a board to be known as the "National Coal Mining Board," and to be composed of nine members, as follows:

(a) Three members constituting the labor group, representing the employees, to be appointed by the President, by and with the advice and consent of the Senate, from not less than six nominees whose nominations shall be made by the United Mine Workers of America.

(b) Three members constituting the management group, representing the employers, to be appointed by the President, by and with the advice and consent of the Senate, from not less than six nominees whose nominations shall

be made by the National Coal Association and the Anthracite Coal Operators Association.

(c) Three members, constituting the public group, representing the public, to be appointed directly by the President, by and with the advice and consent of the Senate.

SEC. 5. Any vacancy on the Labor Board shall be filled in the same manner as the original appointment.

SEC. 6. If either the employees or employers fail to make nominations and offer nominees in accordance with section above within thirty days after the passage of this resolution in case of any original appointment to the office of member of the Labor Board, or in case of a vacancy in any such office within fifteen days after such vacancy occurs, the President shall thereupon directly make the appointment, by and with the advice and consent of the Senate. In making any such appointment the President shall select an individual associated in interest with the group he is appointed to represent.

SEC. 7. Any member of the Labor Board who during his term of office is an active member or in the employ of or holds any office in any organization of employees or coal operators, or owns any stock or bonds thereof, or is pecuniarily interested therein, shall at once become ineligible for further membership upon the Labor Board; but no such member is required to relinquish honorary membership in or his rights to any insurance or pension or other benefit fund maintained by any organization of employees or by any operator.

SEC. 8. Of the original members of the Labor Board, one from each group shall be appointed for a term of three years, one for two years, and one for one year. Their successors shall hold office for terms of five years, except that any member appointed to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. Each member shall receive from the United States an annual salary of \$10,000. A member may be removed by the President for neglect of duty or malfeasance in office, but for no other cause.

SEC. 9. (a) The Labor Board shall (1) upon the application of any operator or organization of employees

whose members are directly interested in the dispute, (2) upon a written petition signed by not less than one hundred unorganized employees directly interested in the dispute, or (3) upon the Labor Board's own motion if it is of the opinion that the dispute is likely substantially to interrupt commerce receive for hearing, and as soon as practicable and with due diligence decide, any dispute with respect to the wages, hours of labor, and other working conditions of employees in or about bituminous coal mines.

(b) A decision by the Labor Board shall require the concurrence therein of at least five of the nine members of the board, and at least one of the representatives of the public shall concur in such decision. All decisions of the Labor Board shall be entered upon the records of the board and copies thereof, together with such statements of facts bearing thereon as the board may deem proper, shall be immediately communicated to the parties to the dispute, and shall be given further publicity in such manner as the Labor Board may determine.

(c) All the decisions of the Labor Board in respect to wages and working conditions of employees shall establish rates of wages and salaries and standards of working conditions which, in the opinion of the board, are just and reasonable. In determining the justness and reasonableness of such wages or working conditions the board, in addition to other relevant principles, standards, and facts, shall take into consideration and be guided by the following fundamental principles:

1. Coal is a public necessity, and in its production and distribution the public interest is predominant.

2. Human standards should be the constraining influence in fixing the wages and working conditions of mine workers.

3. Capital prudently and honestly invested in the coal industry should have an adequate return.

4. The right of operators and miners to organize is recognized and affirmed. This right shall not be denied, abridged, or interfered with in any manner whatsoever, nor shall coercive measures of any kind be used by employers or employees, or by their agents or representa-

tives, to compel or to induce employers or employees to exercise or to refrain from exercising this right.

5. The right of operators and of miners to bargain collectively through representatives of their own choosing is recognized and affirmed.

6. The miners who are not members of a union have the right to work without being harassed by fellow workmen who may belong to unions. The men who belong to a union have the right to work without being harassed by operators. The organizations have a right to go into non-union fields and by peaceable methods try to persuade men to join the unions, but they have no right to try to induce employees to violate contracts which they have entered into with their employers, and the operators, on the other hand have the right by peaceable means to try to persuade men to refrain from joining the unions.

7. The right of every unskilled or common laborer to earn a living wage sufficient to maintain a normal family in health and reasonable comfort, and to afford an opportunity for savings against unemployment, old age, and other contingencies is hereby declared and affirmed. Above this basic wage for unskilled workers, differentials in rates of pay for other mine workers shall be established for skill, experience, hazards of employment and productive efficiency.

8. The right of women to engage in industrial occupations is recognized and affirmed; their rates of pay shall be the same as those of male workers for the same or equivalent service performed; they shall be accorded all the rights and guaranties granted to male workers and the conditions of their employment shall surround them with every safeguard of their health and strength and guarantee them the full measure of protection which is the debt of society to mothers and to potential mothers.

9. Children under the age of sixteen years shall not be employed in the mines.

10. Six days shall be the standard work week in the industry with one day's rest in seven. The standard work day shall not exceed eight hours a day.

11. Punitive overtime shall be paid for hours worked each day in excess of the standard workday.

SEC. 10. When the Labor Board has taken jurisdiction in a case the board's decision shall be rendered within sixty days from the time it has assumed jurisdiction unless this period is extended by agreement of the parties.

SEC. 11. Any order of the Labor Board arising from a case affecting a majority of the employers or employees of the coal-mining industry may, at the discretion of the board, be extended by the board to cover other employers and employees similarly situated.

THE LABOR BOARD

SEC. 12. (a) Shall elect a chairman by majority vote of its members;

(b) Shall maintain central offices in Washington, District of Columbia, but the Labor Board may, whenever it deems it necessary, meet at such other place as it may determine;

(c) Shall investigate and study the relations between operators and their employees, particularly questions relating to wages, hours of labor, and conditions and regularity of employment; shall gather, compile, classify, digest, and publish, from time to time, data and information relating to such questions to the end that the Labor Board may be properly equipped to perform its duties under this Act and that the public may be properly informed; and shall institute measures to stabilize the industry and regularize employment.

(d) May make regulations necessary for the efficient execution of the functions vested in it by this Act; and

(e) Shall at least annually collect and publish its decisions and regulations, together with a cumulative index-digest thereof.

SEC. 13. Any party to any dispute to be considered by the Labor Board shall be entitled to a hearing either in person or by counsel.

SEC. 14. (a) For the efficient administration of the functions vested in the Labor Board by this Act any member thereof may require, by subpoena issued and signed by himself, the attendance of any witness and the pro-

duction of any book, paper, document, or other evidence from any place in the United States, at any designated place of hearing, and the taking of a deposition before any designated person having power to administer oaths. In the case of a deposition, the testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed to by the deponent. Any member of the Labor Board may administer oaths and examine any witness. Any witness summoned before the board, and any witness whose deposition is taken, shall be paid the same fees and mileage as are paid witnesses in the courts of the United States.

(b) In case of failure to comply with any subpoena or in case of the contumacy of any witness appearing before the Labor Board, the board may invoke the aid of any United States district court. Such court may thereupon order the witness to comply with the requirements of such subpoena, or to give evidence touching the matter in question, as the case may be. Any failure to obey such order may be punished by such court as a contempt thereof.

(c) No person shall be excused from so attending and testifying or deposing, nor from so producing any book, paper, document, or other evidence on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing, as to which in obedience to a subpoena and under oath, he may so testify or produce evidence, documentary or otherwise. But no person shall be exempt from prosecution and punishment for perjury committed in so testifying.

SEC. 15. (a) When necessary to the efficient administration of the functions vested in the Labor Board by this Act, any member, officer, employee, or agent thereof, duly authorized in writing by the board, shall at all reasonable times for the purpose of examination have access to and the right to copy any book, account, record, paper, or correspondence relating to any matter which the board is authorized to consider or investigate. Any person who

upon demand refuses any duly authorized member, officer, employee, or agent of the Labor Board such right of access or copying, or hinders, obstructs, or resists him in the exercise of such right, shall upon conviction thereof be liable to a penalty of \$500 for each such offense. Each day during any part of which such offense continues shall constitute a separate offense. Such penalty shall be recoverable in a civil suit brought in the name of the United States, and shall be covered into the Treasury of the United States as miscellaneous receipts.

(b) Every officer or employee of the United States, whenever requested by any member of the Labor Board, shall supply to such board any data or information pertaining to the administration of the functions vested in it by this Act, which may be contained in the records of his office.

SEC. 16. The Labor Board, in case it has reason to believe that any decision made by it is violated by any operator or employee, or organization thereof, may upon its own motion after due notice and hearing to all persons directly interested in such violation, determine whether in its opinion such violation has occurred and make public its decision in such manner as it may determine.

SEC. 17. The Labor Board may (1) appoint a secretary, who shall receive from the United States an annual salary of \$5,000; and (2) subject to the provisions of the civil-service laws, appoint and remove such officers, employees, and agents; and make such expenditures for rent, printing, telegrams, telephone, law books, books of reference, periodicals, furniture, stationery, office equipment, and other supplies and expenses, including salaries, traveling expenses of its members, secretary, officers, employees, and agents, and witness fees, as are necessary for the efficient execution of the functions vested in the board by this Act and as may be provided for by Congress from time to time. All of the expenditures of the Labor Board shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the chairman of the Labor Board.

SEC. 18. There is hereby appropriated for the fiscal year ending June 30, 1922, out of any money in the Treas-

ury not otherwise appropriated, the sum of \$100,000, or so much thereof as may be necessary, to be expended by the Labor Board for defraying the expenses of the maintenance and establishment of the board, including the payment of salaries as provided in this Act.

This Act shall be in force from its passage.

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